

§ 9a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 645

Section, act Mar. 4, 1923, ch. 252, title II, § 209(b), 42 Stat. 1467, authorized Comptroller to fix in advance pay of deputy comptrollers, examiners, clerks, and certain other employees.

§ 10. Salaries of Deputy Comptrollers, examiners, and other employees as part of bank examination expenses

The salaries of the Deputy Comptrollers and of all national bank examiners and assistant examiners assigned to duty in the office of the bureau in Washington in connection with the supervision of national banks shall be considered part of the expenses of the examinations provided for by subchapter XV of chapter 3 of this title.

(Mar. 4, 1923, ch. 252, title II, § 209(b), 42 Stat. 1467; Sept. 9, 1959, Pub. L. 86-251, § 1(c)(2), 73 Stat. 488.)

REFERENCES IN TEXT

Subchapter XV [§ 481 et seq.] of chapter 3 of this title, referred to in text, was in the original a reference to section 5240 of the Revised Statutes.

CODIFICATION

Section is comprised of subsec. (b), fifth sentence, of section 209 of act Mar. 4, 1923. For classification to this title of other provisions of section 209, see Tables.

AMENDMENTS

1959—Pub. L. 86-251 included all Deputy Comptrollers instead of only two deputy comptrollers and struck out provisions deeming the salaries of deputy comptroller, examiners, assistant examiners, clerks and other employees as expenses of administration of national agricultural credit corporation provisions and considering the salary of the additional deputy comptroller as partly an expense of administration in proportion to time spent in such administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title.

§ 11. Interest in national banks

It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to be interested in any association issuing national currency under the laws of the United States.

(R.S. § 329.)

CODIFICATION

R.S. § 329 derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

§ 12. Seal of Comptroller

The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of office of the comptroller, and may be renewed when necessary. A description of the seal, with an impression thereof, and a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State.

(R.S. § 330; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317.)

CODIFICATION

R.S. § 330 derived from act June 3, 1864, ch. 106, § 2, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 13. Rooms for Currency Bureau

There shall be assigned, from time to time, to the Comptroller of the Currency, by the Secretary of the Treasury, suitable rooms in the Treasury Building for conducting the business of the Currency Bureau, containing safe and secure fireproof vaults, in which the Comptroller shall deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the business of his office.

(R.S. § 331.)

REFERENCES IN TEXT

The bureau, referred to in text, is known as the Office of the Comptroller of the Currency.

CODIFICATION

R.S. § 331 derived from act June 3, 1864, ch. 106, § 3, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 14. Report of Comptroller

The Comptroller of the Currency shall make an annual report to Congress.

(R.S. § 333; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317; Aug. 7, 1946, ch. 770, § 1(39), 60 Stat. 869.)

CODIFICATION

R.S. § 333 derived from acts June 3, 1864, ch. 106, § 61, 13 Stat. 117, and Feb. 19, 1873, ch. 166, 17 Stat. 466. Act June 3, 1864, was the National Bank Act. See section 38 of this title.

AMENDMENTS

1946—Act Aug. 7, 1946, repealed in the opening clause, the requirement that the report to Congress shall be submitted at the commencement of its session, and repealed all provisions prescribing contents of the exhibits in the report.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 15. Repealed. Aug. 7, 1946, ch. 770, § 1(40, 50), 60 Stat. 869, 870

Section, act Apr. 28, 1902, ch. 594, § 1, 32 Stat. 138, required inclusion of expenses of liquidation of national banks in annual report of Comptroller of the Currency.

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Sections 21 et seq. of this title are referred to in sections 35, 40, 41, 215c, 377, 501a, 1440, 1467a, 1817, 2254, 3102 of this title; title 18 section 334; title 28 section 1348.

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

§ 21. Formation of national banking associations; incorporators; articles of association

Associations for carrying on the business of banking under title 62 of the Revised Statutes may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(R.S. § 5133.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. § 5133 derived from act June 3, 1864, ch. 106, § 5, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 21a. Amendment of articles of association

Except as otherwise specifically provided by law, or by the articles of association of the particular national banking association, the articles of association of a national banking asso-

ciation may be amended with respect to any lawful matter, and any action requiring the approval of the stockholders of such association may be had by the approving vote of the holders of a majority of the voting shares of the stock of the association obtained at a meeting of the stockholders called and held pursuant to notice given by mail at least ten days prior to the meeting or pursuant to a waiver of such notice given by all stockholders entitled to receive notice of such meeting. A certified copy of every amendment to the articles of association adopted by the shareholders of a national banking association shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(Pub. L. 86-230, § 13, Sept. 8, 1959, 73 Stat. 458.)

§ 22. Organization certificate

The persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specifically state:

First. The name assumed by such association; which name shall include the word "national".

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or District, and the particular county and city, town, or village.

Third. The amount of capital stock and the number of shares into which the same is to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of title 62 of the Revised Statutes.

(R.S. § 5134; Pub. L. 86-230, § 25, Sept. 8, 1959, 73 Stat. 466; Pub. L. 97-320, title IV, § 405(b), Oct. 15, 1982, 96 Stat. 1512.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Fifth, was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§ 5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. § 5134 derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1982—Par. First. Pub. L. 97-320 struck out "and be subject to the approval of the Comptroller of the Currency" after "national".

1959—Par. First. Pub. L. 86-230 substituted "which named shall include the word 'national' and be" for "which name shall be".

CROSS REFERENCES

Business, transaction in place specified in organization certificate, see section 81 of this title.

Change of name or location, see section 30 of this title.

§ 23. Acknowledgment and filing of certificate

The organization certificate shall be acknowledged before a judge of some court of record, or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

(R.S. § 5135.)

CODIFICATION

R.S. § 5135 derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 24. Corporate powers of associations

Upon duly making and filing articles of association and an organization certificate a national banking association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession from February 25, 1927, or from the date of its organization if organized after February 25, 1927, until such time as it be dissolved by the act of its shareholders owning two-thirds of its stock, or until its franchise becomes forfeited by reason of violation of law, or until terminated by either a general or a special Act of Congress or until its affairs be placed in the hands of a receiver and finally wound up by him.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of title 62 of the Revised Statutes. The business of dealing in securities and stock

by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock; *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969 [D.C. Code, §1-2458], or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks, or obligations which are insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act [12 U.S.C. 1749aaa et seq.] or obligations which are insured by the Secretary of Housing and Urban Development (hereinafter in this sentence referred to as the "Secretary") pursuant to section 207 of the National Housing Act [12 U.S.C. 1713], if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association, or the Government National Mortgage Association, or mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or obligations of the Federal Financing Bank or obligations of the Environmental Financing Authority, or obligations or other instruments or securities of the Student Loan Marketing Association, or such obligations of any local public agency (as defined in section

110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) as are secured by an agreement between the local public agency and the Secretary in which the local public agency agrees to borrow from said Secretary, and said Secretary agrees to lend to said local public agency, monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) as are secured (1) by an agreement between the public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary if such contract shall contain the covenant by the Secretary which is authorized by subsection (g) of section 6 of the United States Housing Act of 1937, as amended [42 U.S.C. 1437d(g)], and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 6(g) [42 U.S.C. 1437d(g)] shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations, or (3) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937 [42 U.S.C. 1437d(g)], and a loan under an agreement between the local public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, moneys in an amount which (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on such obligations) will suffice to provide for the payment when due of all installments of principal and interest on such obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on such obligations at their maturity: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital

stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the North American Development Bank, the Asian Development Bank, the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,¹ or obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account, nor to bonds, notes and other obligations issued by the Tennessee Valley Authority or by the United States Postal Service: *Provided*, That no association shall hold obligations issued by any of said organizations as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and may make investments in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act [42 U.S.C. 3937(a) or 3937(c)]. Notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock issued by any State housing corporation incorporated in the State in which the association is located and may make investments in loans and commitments for loans to any such corporation: *Provided*, That in no event shall the total amount of such stock held for its own account and such investments in loans and commitments made by the association exceed at any time 5 per centum of its capital stock actually paid in and unimpaired plus 5 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association: *Provided further*, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corpora-

tion or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies (as defined in section 1813 of this title) and such bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank"), but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of the association's capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company. The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); (B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(53)]); or (C) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(41)]).² The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.

A national banking association may deal in, underwrite, and purchase for such association's own account qualified Canadian government obligations to the same extent that such association may deal in, underwrite, and purchase for such association's own account obligations of the United States or general obligations of any State or of any political subdivision thereof. For purposes of this paragraph—

(1) the term "qualified Canadian government obligations" means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, such State, or such political subdivision, and such term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

(A) the obligation of the agent is assumed in such agent's capacity as agent for Canada or such Province or such political subdivision; and

¹ So in original.

² So in original. The period probably should be preceded by an additional closing parenthesis.

(B) Canada, such Province, or such political subdivision on whose behalf such agent is acting with respect to such obligation is ultimately and unconditionally liable for such obligation; and

(2) the term “Province of Canada” means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.

Eighth. To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, such sums as its board of directors may deem expedient and in the interests of the association, if it is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

Ninth. To issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 percent of the assets of the association.

Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.

(R.S. § 5136; July 1, 1922, ch. 257, § 1, 42 Stat. 767; Feb. 25, 1927, ch. 191, § 2, 44 Stat. 1226; June 16, 1933, ch. 89, § 16, 48 Stat. 184; Aug. 23, 1935, ch. 614, title III, § 308, 49 Stat. 709; Feb. 3, 1938, ch. 13, § 13, 52 Stat. 26; June 11, 1940, ch. 301, 54 Stat. 261; June 29, 1949, ch. 276, § 1, 63 Stat. 298; July 15, 1949, ch. 338, title VI, § 602(a), 63 Stat. 439; Apr. 9, 1952, ch. 169, 66 Stat. 49; Aug. 2, 1954, ch. 649, title II, § 203, 68 Stat. 622; Aug. 23, 1954, ch. 834, § 2, 68 Stat. 771; July 26, 1956, ch. 741, title II, § 201(c), 70 Stat. 667; Aug. 6, 1959, Pub. L. 86-137, § 2, 73 Stat. 285; Aug. 7, 1959, Pub. L. 86-147, § 10, 73 Stat. 301; Sept. 8, 1959, Pub. L. 86-230, § 1(a), 73 Stat. 457; Sept. 16, 1959, Pub. L. 86-278, 73 Stat. 563; Sept.

23, 1959, Pub. L. 86-372, title IV, § 420, 73 Stat. 679; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(c), 78 Stat. 800; Mar. 16, 1966, Pub. L. 89-369, § 10, 80 Stat. 72; Nov. 3, 1966, Pub. L. 89-754, title V, § 504(a)(1), 80 Stat. 1277; May 25, 1967, Pub. L. 90-19, § 27(a), 81 Stat. 28; Aug. 1, 1968, Pub. L. 90-448, title VIII, §§ 804(c), 807(j), title IX, § 911, title XVII, § 1705(h), 82 Stat. 543, 545, 550, 605; Aug. 12, 1970, Pub. L. 91-375, § 6(d), 84 Stat. 776; June 23, 1972, Pub. L. 92-318, title I, § 133(c)(1), 86 Stat. 269; Dec. 9, 1969, Pub. L. 91-143, § 12(b), as added July 13, 1972, Pub. L. 92-349, title I, § 101, 86 Stat. 466; Oct. 18, 1972, Pub. L. 92-500, § 12(n), 86 Stat. 902; Aug. 16, 1973, Pub. L. 93-100, § 5(c), 87 Stat. 344; Dec. 29, 1973, Pub. L. 93-224, § 14, 87 Stat. 941; Dec. 31, 1973, Pub. L. 93-234, title II, § 207, 87 Stat. 984; Aug. 22, 1974, Pub. L. 93-383, title II, § 206, title VIII, § 805(c)(1), 88 Stat. 668, 726; Mar. 31, 1980, Pub. L. 96-221, title VII, § 711, 94 Stat. 189; Aug. 13, 1981, Pub. L. 97-35, title XIII, § 1342(a), 95 Stat. 743; Oct. 15, 1982, Pub. L. 97-320, title IV, § 404(b), 96 Stat. 1511; Jan. 12, 1983, Pub. L. 97-457, § 18, 96 Stat. 2509; Oct. 3, 1984, Pub. L. 98-440, title I, § 105(c), 98 Stat. 1691; Oct. 12, 1984, Pub. L. 98-473, title I, § 101(1)[title I, § 101], 98 Stat. 1884, 1885; Aug. 10, 1987, Pub. L. 100-86, title I, § 108, 101 Stat. 579; Sept. 28, 1988, Pub. L. 100-449, title III, § 308, 102 Stat. 1877; Nov. 5, 1990, Pub. L. 101-513, title V, § 562(c)(10)(B), (e)(1)(B), 104 Stat. 2036, 2037; Oct. 23, 1992, Pub. L. 102-485, § 6(a), 106 Stat. 2774; Dec. 8, 1993, Pub. L. 103-182, title V, § 541(h)(1), 107 Stat. 2167; Sept. 23, 1994, Pub. L. 103-325, title II, § 206(c), title III, §§ 322(a)(1), 347(b), 108 Stat. 2199, 2226, 2241.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Seventh, was in the original “this Title” meaning title 62 of the Revised Statutes, consisting of R.S. §§ 5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5133 to 5244 to the Code, see Tables.

The Federal Farm Loan Act, referred to in par. Seventh, is act July 17, 1916, ch. 245, 39 Stat. 360, which was classified to section 641 et seq. of this title prior to its repeal by Pub. L. 92-181, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. See chapter 23 (§ 2001 et seq.) of this title.

The National Housing Act, referred to in par. Seventh, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title XI of the National Housing Act is title XI of act June 27, 1934, ch. 847, as added by act Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1274, which is classified generally to subchapter IX-B (§ 1749aaa et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 110 of the Housing Act of 1949 [42 U.S.C. 1460], referred to in par. Seventh, was omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated authority to make grants or loans under title I of that Act [42 U.S.C. 1450 et seq.] after Jan. 1, 1975.

The United States Housing Act of 1937, referred to in par. Seventh, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Housing and Urban Development Act of 1968, referred to in par. Seventh, is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Housing and Urban Development Act is classified principally to chapter 49 (§3931 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 98-473 is based on section 211(a) of title II of S. 2416, as introduced in the Senate on Mar. 13, 1984, which was enacted into permanent law by section 101(1) of Pub. L. 98-473.

R.S. §5136 derived from act June 3, 1864, ch. 106, §8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Par. Seventh. Pub. L. 103-325, §347(b), in last sentence of first par., substituted “(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations” for “(15 U.S.C. 78c(a)(41))), subject to such regulations”.

Pub. L. 103-325, §322(a)(1)(A), in fifth proviso inserted “or depository institution holding companies (as defined in section 1813 of this title)” after “(except to the extent directors’ qualifying shares are required by law) by depository institutions”.

Pub. L. 103-325, §322(a)(1)(B), which directed substitution in fifth proviso of “services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a ‘banker’s bank’)” for “services for other depository institutions and their officers, directors and employees”, was executed by making the substitution for “services for other depository institutions and their officers, directors, and employees” to reflect the probable intent of Congress.

Pub. L. 103-325, §206(c), substituted “(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities” for “or (B) are mortgage related securities”.

1993—Par. Seventh. Pub. L. 103-182 inserted “the North American Development Bank,” after “Inter-American Development Bank,”.

1992—Par. Eleventh. Pub. L. 102-485 added par. Eleventh.

1990—Par. Seventh. Pub. L. 101-513 inserted “the European Bank for Reconstruction and Development,” before “the Inter-American Development Bank,” and substituted “the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,” for “the African Development Bank or the Inter-American Investment Corporation,”.

1988—Par. Seventh. Pub. L. 100-449 inserted provisions authorizing national banking associations to deal in, underwrite, and purchase Canadian government obligations for the association’s own account.

1987—Par. Tenth. Pub. L. 100-86 added par. Tenth.

1984—Par. Seventh. Pub. L. 98-473 inserted reference to the Inter-American Investment Corporation.

Pub. L. 98-440 inserted provision that the limitations and restrictions contained in this paragraph as to an association purchasing investment securities for its own account shall not apply to securities offered and sold pursuant to section 15 U.S.C. 77d(5), or that are mortgage related securities (as defined in 15 U.S.C. 78c(a)(41)), subject to such regulations as the Comptroller of the Currency may prescribe.

1983—Par. Seventh. Pub. L. 97-457 substituted “10 per centum of the association’s” for “10 per centum of its” after “exceed at any time”.

1982—Par. Seventh. Pub. L. 97-320 substituted “*Provided further, That notwithstanding any other provision*

of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors’ qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association’s acquiring more than 5 per centum of any class of voting securities of such bank or company” for “*Provided further, That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association’s acquiring more than 5 per centum of any class of voting securities of such bank*”.

1981—Par. Seventh. Pub. L. 97-35 inserted reference to the African Development Bank.

1980—Par. Seventh. Pub. L. 96-221 inserted proviso relating to purchase of stock in bankers’ banks.

1974—Par. Seventh. Pub. L. 93-383 substituted “section 6(g) of the United States Housing Act of 1937” for references to section 1421a(b) of title 42 wherever appearing, struck out “either” before “(1)”, “(which obligations shall have a maturity of not more than eighteen months)” in cl. (1) and “or” before “(2)”, added cl. (3), and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

1973—Par. Seventh. Pub. L. 93-234 authorized investments by national banks in agricultural credit corporations.

Pub. L. 93-224 inserted “or obligations of the Federal Financing Bank” after “or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association”.

Pub. L. 93-100 inserted provision that the association may purchase shares of stock issued by state housing corporations incorporated in the state in which the association is located and make investments in loans and commitments for loans to such corporations with certain limitations.

1972—Par. Seventh. Pub. L. 92-500 inserted “or obligations of the Environmental Financing Authority” after “Government National Mortgage Association”.

Pub. L. 92-349 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

Pub. L. 92-318 included obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Par. Seventh. Pub. L. 91-375 made limitations and restrictions contained in this section as to dealing in and underwriting investment securities inapplicable to bonds, notes and other obligations issued by the United States Postal Service.

1968—Par. Seventh. Pub. L. 90-448, §807(j), inserted “or the Government National Mortgage Association” after “Federal National Mortgage Association”.

Pub. L. 90-448, §911, authorized the association to purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to sections 3931-3940 of title 42, and to make investments in a partnership, limited partnership, or joint venture formed pursuant to section 3937(a) or 3937(c) of title 42.

Pub. L. 90-448, §1705(h), included obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes.

Par. Ninth. Pub. L. 90-448, §804(c), added par. Ninth. 1967—Par. Seventh. Pub. L. 90-19 substituted "Secretary of Housing and Urban Development (hereafter in this sentence referred to as the 'Secretary')" for "Federal Housing Administrator"; and "Secretary" for "Housing and Home Finance Administrator" after "local public agency and the", for "Administrator" in two instances just before "agrees to lend", and for "Public Housing Administration" wherever appearing in cls. (1) and (2), respectively.

1966—Par. Seventh. Pub. L. 89-754 made limitations and restrictions for dealing, underwriting, and purchasing for its own account of investment securities inapplicable to obligations which are insured by Secretary of Housing and Urban Development under provisions relating to mortgage insurance for group practice facilities.

Pub. L. 89-369 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Asian Development Bank.

1964—Par. Seventh. Pub. L. 88-560 substituted "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "or obligations of the Federal National Mortgage Association".

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" after "local public agency".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other

monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" following "local public agency".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1956—Par. Seventh. Act July 26, 1956, removed restriction which prohibited a national bank from investing in obligations of the thirteen banks for cooperatives an amount exceeding 10 percent of its capital stock actually paid in and unimpaired and 10 percent of its unimpaired surplus.

1954—Par. Seventh. Act Aug. 23, 1954, substituted "thirteen banks for cooperatives organized under the Farm Credit Act of 1933, or any of them" for "Central Bank for Cooperatives" in last sentence.

Act Aug. 2, 1954, substituted "or obligations of the Federal National Mortgage Association" for "or obligations of national mortgage associations" in sixth sentence.

1952—Par. Seventh. Act Apr. 9, 1952, enabled national banks and State member banks of the Federal Reserve System to receive compensation in the distribution of debentures issued by the Central Bank for Cooperation.

1949—Par. Seventh. Act July 15, 1949, inserted, in next to last sentence, "or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Housing and Home Finance Administrator in which the local public agency agrees to borrow from said Administrator, and said Administrator agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and

if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment, which are requisite to provide for the payment when due of all installments of principal and interest on such obligations”.

Act June 29, 1949, inserted last sentence to permit national banks and State member banks of the Federal Reserve System to deal in and underwrite obligations issued by the International Bank subject to certain limitations.

1940—Par. Eighth. Act June 11, 1940, added par. Eighth.

1938—Par. Seventh. Act Feb. 3, 1938, inserted “or obligations of national mortgage associations” in last sentence.

1935—Par. Seventh. Act Aug. 23, 1935, amended section, fourth, and last sentences.

1933—Act June 16, 1933, among other changes, struck out closing paragraph prohibiting transaction of any business by association prior to authorization by Comptroller, except that necessarily preliminary to organization.

1927—Act Feb. 25, 1927, struck out definite period of succession in par. Second, and inserted provisos in par. Seventh.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 347(d) of Pub. L. 103-325 provided that: “The amendments made by this section [amending this section and section 78c of Title 15, Commerce and Trade] shall become effective upon the date of promulgation of final regulations under subsection (c) [set out below].”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97-35, set out as an Effective Date note under section 290i of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-224 effective Dec. 29, 1973, see section 20 of Pub. L. 93-224, set out as an Effective Date note under section 2281 of this title.

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-375, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see section 202(a) of act July 26, 1956.

EFFECTIVE DATE OF 1933 AMENDMENT

Section 16 of act June 16, 1933, provided that restrictions of this section as to dealing in investment securities shall take effect one year after June 16, 1933.

REGULATIONS

Section 347(c) of Pub. L. 103-325 provided that: “Not later than 1 year after the date of enactment of this

Act [Sept. 23, 1994], the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes [this section] (as amended by subsection (b)), to carry out the amendments made by this section [amending this section and section 78c of Title 15, Commerce and Trade].”

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of this title.

CROSS REFERENCES

Definition of State and State housing corporation, see section 1470 of this title.

Home Owners' Loan Corporation, termination of functions, see section 712a of Title 15, Commerce and Trade.

Investment of customers' moneys by futures commission merchants in investment securities, see section 6d of Title 7, Agriculture.

National Housing Act, applicability of this section to, see section 1733 of this title.

State member banks of Federal Reserve System, dealings in investment securities as subject to limitations and conditions of par. “Seventh” of this section, see section 335 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 335, 371c, 378, 1464, 1733, 1841, 1843, 3102, 3201 of this title; title 22 section 286k-2.

§ 25. Omitted

CODIFICATION

Section, act July 1, 1922, ch. 257, §2, 42 Stat. 767, repealed all acts extending the period of succession of national banking associations for 20 years, and made paragraph Second of section 24 applicable in that respect.

§ 25a. Participation by national banks in lotteries and related activities

(a) Prohibited activities

A national bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery;
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A national bank may not permit—

- (1) the use of any part of any of its banking offices by any persons for any purpose forbidden to the bank under subsection (a) of this section, or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.

(2) The term “lottery” includes any arrangement whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term “lottery ticket” includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(d) Lawful banking services connected with operation of lotteries

Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Comptroller of the Currency shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(R.S. §5136A, as added Pub. L. 90-203, §1(a), Dec. 15, 1967, 81 Stat. 608.)

EFFECTIVE DATE

Section 6 of Pub. L. 90-203 provided that: “The amendments made by this Act [adding this section, sections 339, 1730c, and 1829a of this title, and section 1306 of Title 18, Crimes and Criminal Procedure] shall take effect on April 1, 1968.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

§ 26. Comptroller to determine if association can commence business

Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in title 62 of the Revised Statutes, and the association transmitting the same notifies the comptroller that all of its capital stock has been duly paid in, and that such association has complied with all the provisions of title 62 of the Revised Statutes required to be complied with before an association shall be authorized to commence the business of banking, the comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner

in good faith, and generally whether such association has complied with all the provisions of title 62 of the Revised Statutes required to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(R.S. §5168; Pub. L. 86-230, §2, Sept. 8, 1959, 73 Stat. 457.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original “this Title” meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5168 derived from act June 3, 1864, ch. 106, §17, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-230 substituted “all” for “at least 50 per centum” before “of its capital stock”.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Conversion of national banks into State banks, see sections 214 to 214c of this title.

§ 27. Certificate of authority to commence banking

(a) If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the comptroller may withhold from an association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by title 62 of the Revised Statutes. A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its op-

erations are or have been required by the Comptroller of the Currency to limited to those of a trust company and activities related thereto.

(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or depository institution holding companies and is organized to engage exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank").

(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.

(R.S. §5169; Pub. L. 95-630, title XV, §1504, Nov. 10, 1978, 92 Stat. 3713; Pub. L. 96-221, title VII, §712(a), (c), Mar. 31, 1980, 94 Stat. 189, 190; Pub. L. 97-320, title IV, §404(a), Oct. 15, 1982, 96 Stat. 1511; Pub. L. 103-325, title III, §322(a)(2), Sept. 23, 1994, 108 Stat. 2227.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in subsec. (a), was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5169 derived from act June 3, 1864, ch. 106, §§12, 18, 13 Stat. 102, 104, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-325, §322(a)(2)(A), inserted "or depository institution holding companies" after "by other depository institutions".

Pub. L. 103-325, §322(a)(2)(B), which directed substitution of "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')" for "services for other depository institutions and their officers, directors and employees", was executed by making the substitution for "services for other depository institutions and their officers, directors, and employees" to reflect the probable intent of Congress.

1982—Pub. L. 97-320 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-221, §712(a), (c), temporarily inserted provisions relating to treatment of national banking associations as additional banks within the contemplation of section 1842 of this title. See Termination Date of 1980 Amendment note below.

1978—Pub. L. 95-630 inserted provision that a National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto.

TERMINATION DATE OF 1980 AMENDMENT

Section 712(c) of Pub. L. 96-221 provided that: "The amendments made by this section [amending this section and section 1842 of this title] are hereby repealed on October 1, 1981."

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1505 of Pub. L. 95-630 provided that: "This title [amending this section and sections 1715z-10 and 2902 of this title and amending provisions set out as a note under section 1666f of Title 15, Commerce and Trade] shall take effect upon enactment [Nov. 10, 1978]."

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Conversion of national banks into State banks, see sections 214 to 214c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 28. Repealed. Pub. L. 103-325, title VI, § 602(e)(1), Sept. 23, 1994, 108 Stat. 2291

Section, R.S. §5170, required publication of certificate of authority to commence banking for 60 days after issuance.

CODIFICATION

R.S. §5170 derived from act June 3, 1864, ch. 106, §18, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

§ 29. Power to hold real property

A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years except as otherwise provided in this section.

For real estate in the possession of a national banking association upon application by the as-

sociation, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.

Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.

(R.S. §5137; Feb. 25, 1927, ch. 191, §3, 44 Stat. 1227; Mar. 31, 1980, Pub. L. 96-221, title VII, §701(a), 94 Stat. 186; July 27, 1981, Pub. L. 97-25, title III, §302, 95 Stat. 145; Oct. 15, 1982, Pub. L. 97-320, title IV, §413, 96 Stat. 1521.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in last par., was in the original “this title” meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5137 derived from act June 3, 1864, ch. 106, §28, 13 Stat. 107, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1982—Pub. L. 97-320 substituted “Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association” for “Notwithstanding any other

provision of this section, any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association’s books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association”.

1981—Pub. L. 97-25 inserted provision that any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association’s books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association.

1980—Pub. L. 96-221 inserted provisions relating to authorization to hold real estate in the possession of a national banking association upon application by the association.

1927—Par. First. Act Feb. 25, 1927, struck out “immediate,” before “accommodation,” in par. First.

CROSS REFERENCES

Corporate powers of associations, see section 24 of this title.

Real estate, forest tract, construction and commercial loans by national banking associations, see section 371 of this title.

§ 30. Change of name or location

(a) Name change

Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word “National”.

(b) Location change

Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association for a relocation outside such limits and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.

(c) Coordination with section 36 of this title

In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 36(e)(2) of this title.

(May 1, 1886, ch. 73, §2, 24 Stat. 18; Sept. 8, 1959, Pub. L. 86-230, §3, 73 Stat. 457; Oct. 15, 1982, Pub. L. 97-320, title IV, §405(a), 96 Stat. 1512; Jan. 12, 1983, Pub. L. 97-457, §19(a), 96 Stat. 2509; Sept. 29, 1994, Pub. L. 103-328, title I, §102(b)(2), 108 Stat. 2350.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-328 added subsec. (c).

1983—Subsec. (b). Pub. L. 97-457 inserted “for a relocation outside such limits” after “stock of such association”.

1982—Pub. L. 97-320 designated existing provisions as subsec. (a), substituted provisions permitting a change of name upon written notice to the Comptroller, such

new name to include “National”, for provisions permitting a change of name or location of the main office, with approval of the Comptroller, within city limits, etc., or outside such limits by vote of shareholders, such change to be validated by certificate of approval, and added subsec. (b).

1959—Pub. L. 86-230 required approval of Comptroller of the Currency before a national bank could change location of its main office within the limitations of the city, town, or village in which it is situated.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Conversion of national banks into State banks, see sections 214 to 214c of this title.

§ 31. Rights and liabilities as affected by change of name

All debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.

(May 1, 1886, ch. 73, § 3, 24 Stat. 19.)

§ 32. Liabilities and suits as affected by change of name or location

Nothing contained in sections 30 and 31 of this title shall be so construed as in any manner to release any national banking association under its old name or at its old location from any liability, or affect any action or proceeding in law in which said association may be or become a party or interested.

(May 1, 1886, ch. 73, § 4, 24 Stat. 19.)

§§ 33 to 34c. Transferred

CODIFICATION

Act Nov. 7, 1918, ch. 209, 40 Stat. 1043, as amended, formerly classified to sections 33 to 34c of this title, which related to consolidation and merger of national banking associations and such associations and State banks, was completely amended by Pub. L. 86-230, § 20, Sept. 8 1959 73 Stat. 460, and is classified to sections 215 to 215b of this title.

Section 33, acts Nov. 7, 1918, ch. 209, § 1, 40 Stat. 1043; June 16, 1933, ch. 89, § 24(a), 48 Stat. 190; Aug. 23, 1935, ch. 614, § 330, 49 Stat. 718, related to consolidation of national banks, capital stock, dissenting shareholders, notice and valuation of shares. See section 215 of this title.

Section 34, act Nov. 7, 1918, ch. 209, § 2, 40 Stat. 1044, related to effect of consolidation on rights and liabilities. See section 215 of this title.

Section 34a, act Nov. 7, 1918, ch. 209, § 3, as added Feb. 25, 1927, ch. 191, § 1, 44 Stat. 1225, and amended June 16, 1933, ch. 89 § 24, 48 Stat. 190; Aug. 23, 1935, ch. 614, § 331, 49 Stat. 719; July 14, 1952, ch. 722, § 2, 66 Stat. 601, related to consolidation of State bank, etc. with national bank, capital stock and dissenting shareholders. See section 215 of this title.

Section 34b, act Nov. 7, 1918, ch. 209, § 4, as added July 14, 1952, ch. 722, § 1, 66 Stat. 599, related to merger of national banking associations or State banks into national banking associations. See section 215a of this title.

Section 34c, act Nov. 7, 1918, ch. 209, § 5, as added July 14, 1952, ch. 722, § 1, 66 Stat. 601, related to definitions. See section 215b of this title.

§ 35. Organization of State banks as national banking associations

Any bank incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a national banking association under the provisions of the existing laws may, by the vote of the shareholders owning not less than 51 per centum of the capital stock of such bank or banking association, with the approval of the Comptroller of the Currency be converted into a national banking association, with a name that contains the word “national”: *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of 51 per centum of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the association until others are elected or appointed in accordance with the provisions of the statutes of the United States. When the Comptroller has given to such bank or banking association a certificate that the provisions of this Act have been complied with, such bank or banking association, and all its stockholders, officers, and employees shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by the Federal Reserve Act [12 U.S.C. 221 et seq.] and the National Banking Act for associations originally organized as national banking associations.

The Comptroller of the Currency may, in his discretion and subject to such conditions as he may prescribe, permit such converting bank to retain and carry at a value determined by the Comptroller such of the assets of such converting bank as do not conform to the legal requirements relative to assets acquired and held by national banking associations.

(R.S. § 5154; Dec. 23, 1913, ch. 6, § 8, 38 Stat. 258; Aug. 23, 1935, ch. 614, title III, § 312, 49 Stat. 711; Jan. 12, 1983, Pub. L. 97-457, § 19(b), 96 Stat. 2509.)

REFERENCES IN TEXT

This Act, referred to in first par., may refer to the Federal Reserve Act, act Dec. 23, 1913, from which this wording is derived; or section 5154 of the Revised Statutes which the Federal Reserve Act amended; or act June 3, 1864, from which R.S. § 5154 was derived; or Congress might have intended to refer to the preceding provisions of the 1913 amendment. Similar reference in R.S. § 5154 prior to 1913 amendment was to “this Title,” meaning title 62 of the Revised Statutes, which title comprised the National Bank Act (June 3, 1864, ch. 106, 13 Stat. 99). See section 38 of this title. Note also spe-

cific reference to the Federal Reserve Act and the National Banking Act in first par.

The Federal Reserve Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

The National Banking Act, referred to in text, is probably intended to be a reference to the National Bank Act, act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code see References in Text note set out under section 38 of this title.

CODIFICATION

R.S. §5154 derived from act June 3, 1864, ch. 106, §44, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1983—Pub. L. 97-457 substituted “with a name that contains the word ‘national’” for “with any name approved by the Comptroller of the Currency” after “national banking association.”

1935—Act Aug. 23, 1935, added last par.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Conversion of national banks into State banks, see sections 214 to 214c of this title.

§ 36. Branch banks

The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

(a) Lawful and continuous operation

A national banking association may retain and operate such branch or branches as it may have had in lawful operation on February 25, 1927, and any national banking association which continuously maintained and operated not more than one branch for a period of more than twenty-five years immediately preceding February 25, 1927, may continue to maintain and operate such branch.

(b) Converted State banks

(1) A national bank resulting from the conversion of a State bank may retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office—

(A) might be established under subsection (c) of this section as a new branch of the resulting national bank, and is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank;

(B) was a branch of any bank on February 25, 1927; or

(C) is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of

the national bank) resulting from the conversion of a national bank would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the national bank immediately prior to conversion.

(2) A national bank (referred to in this paragraph as the “resulting bank”), resulting from the consolidation of a national bank (referred to in this paragraph as the “national bank”) under whose charter the consolidation is effected with another bank or banks, may retain and operate as a branch any office which, immediately prior to such consolidation, was in operation as—

(A) a main office or branch office of any bank (other than the national bank) participating in the consolidation if, under subsection (c) of this section, it might be established as a new branch of the resulting bank, and if the Comptroller of the Currency approves of its continued operation after the consolidation;

(B) a branch of any bank participating in the consolidation, and which, on February 25, 1927, was in operation as a branch of any bank; or

(C) a branch of the national bank and which, on February 25, 1927, was not in operation as a branch of any bank, if the Comptroller of the Currency approves of its continued operation after the consolidation.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the resulting national bank) resulting from the consolidation into a State bank of another bank or banks would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the State bank immediately prior to consolidation.

(3) As used in this subsection, the term “consolidation” includes a merger.

(c) New branches

A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question; and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks. In any State in which State banks are permitted by statute law to maintain branches within county or greater limits, if no bank is located and doing business in the place where the proposed agency is to be located, any national banking association situated in such State may, with the approval of the Comptroller of the Currency, establish and operate, without regard to the capital requirements of this section, a seasonal agency in any resort community within the limits of the county in which the main office of

such association is located, for the purpose of receiving and paying out deposits, issuing and cashing checks and drafts, and doing business incident thereto: *Provided*, That any permit issued under this sentence shall be revoked upon the opening of a State or national bank in such community. Except as provided in the immediately preceding sentence, no such association shall establish a branch outside of the city, town, or village in which it is situated unless it has a combined capital stock and surplus equal to the combined amount of capital stock and surplus, if any, required by the law of the State in which such association is situated for the establishment of such branches by State banks, or, if the law of such State requires only a minimum capital stock for the establishment of such branches by State banks, unless such association has not less than an equal amount of capital stock.

(d) Branches resulting from interstate merger transactions

A national bank resulting from an interstate merger transaction (as defined in section 1831u(f)(6) of this title) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B) of this section) of such bank in accordance with section 1831u of this title.

(e) Exclusive authority for additional branches

(1) In general

Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B) of this section) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 1823(f), 1823(k), or 1831u of this title.

(2) Retention of branches

In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B) of this section) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

(A) the bank had no branches in such State; or

(B) the branch resulted from—

(i) an interstate merger transaction approved pursuant to section 1831u of this title; or

(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 1823(c) of this title.

(f) Law applicable to interstate branching operations

(1) Law applicable to national bank branches

(A) In general

The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—

(i) when Federal law preempts the application of such State laws to a national bank; or

(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

(B) Enforcement of applicable State laws

The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

(2) Treatment of branch as bank

All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

(3) Rule of construction

No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.

(g) State "opt-in" election to permit interstate branching through de novo branches

(1) In general

Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

(A) there is in effect in the host State a law that—

(i) applies equally to all banks; and

(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

(2) Conditions on establishment and operation of interstate branch

(A) Establishment

An application by a national bank to establish and operate a de novo branch in a

host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 1831u(b) of this title.

(B) Operation

Subsections (c) and (d)(2) of section 1831u of this title shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 1831u of this title apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 1831u of this title.

(3) Definitions

The following definitions shall apply for purposes of this section:

(A) De novo branch

The term “de novo branch” means a branch of a national bank which—

- (i) is originally established by the national bank as a branch; and
- (ii) does not become a branch of such bank as a result of—
 - (I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or
 - (II) the conversion, merger, or consolidation of any such institution or branch.

(B) Home State

The term “home State” means the State in which the main office of a national bank is located.

(C) Host State

The term “host State” means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

(h) Aggregate minimum capital

The aggregate capital of every national banking association and its branches shall at no time be less than the aggregate minimum capital required by law for the establishment of an equal number of national banking associations situated in the various places where such association and its branches are situated.

(i) Prior approval of branch locations

No branch of any national banking association shall be established or moved from one location to another without first obtaining the consent and approval of the Comptroller of the Currency.

(j) “Branch” defined

The term “branch” as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

(k) Branches in foreign countries, dependencies, or insular possessions

This section shall not be construed to amend or repeal section 25 of the Federal Reserve Act, as amended [12 U.S.C. 601 et seq.], authorizing the establishment by national banking associations of branches in foreign countries, or dependencies, or insular possessions of the United States.

(l) “State bank” and “bank” defined

The words “State bank,” “State banks,” “bank,” or “banks,” as used in this section, shall be held to include trust companies, savings banks, or other such corporations or institutions carrying on the banking business under the authority of State laws.

(R.S. §5155; Feb. 25, 1927, ch. 191, §7, 44 Stat. 1228; June 16, 1933, ch. 89, §23, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §305, 49 Stat. 708; July 15, 1952, ch. 753, §2(b), 66 Stat. 633; Sept. 28, 1962, Pub. L. 87-721, 76 Stat. 667; Sept. 29, 1994, Pub. L. 103-328, title I, §§102(b)(1), 103(a), 108 Stat. 2349, 2352.)

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, as amended, referred to in subsec. (k), is classified to subchapter I (§601 et seq.) of chapter 6 of this title.

CODIFICATION

R.S. §5155 derived from act Mar. 3, 1865, ch. 78, §7, 13 Stat. 484.

AMENDMENTS

1994—Subsecs. (d) to (f). Pub. L. 103-328, §102(b)(1)(B), added subsecs. (d) to (f). Former subsecs. (d) to (f) redesignated (h) to (j), respectively.

Subsec. (g). Pub. L. 103-328, §103(a), added subsec. (g). Pub. L. 103-328, §102(b)(1)(A), redesignated subsec. (g) as (k).

Subsecs. (h) to (l). Pub. L. 103-328, §102(b)(1)(A), redesignated subsecs. (d) to (h) as (h) to (l), respectively.

1962—Subsec. (b). Pub. L. 87-721 substituted provisions permitting a national bank resulting from the conversion of a State bank to retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office might be established as a new branch of the resulting national bank, and is approved by the Comptroller for continued operation as a branch of the resulting bank, or any office which was a branch of any bank on Feb. 25, 1927, or any office which is approved by the Comptroller for continued operation as a branch, and a national bank resulting from consolidation of a national bank under whose charter the consolidation is effected with another bank or banks to retain and operate any office which, immediately prior to consolidation, was in operation as a main office or branch office of any bank (other than the national bank) participating in the consolidation if it might be established as a new branch of the resulting bank, and if the Comptroller approves of its continued operation, or was in operation as a branch of any bank participating in the consolidation and which, on Feb. 25, 1927, was in operation as a branch of any bank, or was in operation as a branch of the national bank and which, on Feb. 25, 1927, was not in operation as a branch of any bank, if the Comptroller approves of its continued operation, for provisions which permitted State banks converted into or consolidated with national banking associations after Feb. 25, 1927, or two or more national banking associations which are consolidated, to retain and operate only those branches which may have been in lawful operation on Feb. 25, 1927, and inserted provisions prohibiting the Comptroller from granting approval under

clauses (1)(C) and (2)(C) if a State bank resulting from the conversion or consolidation would be prohibited by law of the State from retaining and operating as a branch an identically situated office which was a branch of the national bank or State bank immediately prior to the conversion or consolidation.

1952—Subsec. (c). Act July 15, 1952, struck out the minimum capital requirement for the establishment of branches by national banks.

1935—Subsec. (c). Act Aug. 23, 1935, inserted second sentence and substituted “Except as provided in the immediately preceding sentence, no” for “No” in last sentence.

1933—Subsecs. (c), (d). Act June 16, 1933, amended subsecs. (c) and (d).

1927—Act Feb. 25, 1927, amended section generally.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICABILITY OF MCFADDEN ACT TO PRESENT FINANCIAL ENVIRONMENT; REPORT AND RECOMMENDATIONS BY PRESIDENT TO CONGRESS

Pub. L. 95-369, §14, Sept. 17, 1978, 92 Stat. 625, provided for a report to Congress by the President, not later than one year after Sept. 17, 1978, containing recommendations concerning the applicability of the McFadden Act [Feb. 25, 1927, ch. 191, 44 Stat. 1224] to the then current financial, banking, and economic environment.

CROSS REFERENCES

Conversion of national banks into State banks, see sections 214 to 214c of this title.

Place of business, see section 81 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30, 43, 81, 93a, 1820, 3103 of this title.

§ 37. Associations governed by chapter

The provisions of chapters 2, 3, and 4 of title 62 of the Revised Statutes, which are expressed without restrictive words, as applying to “national banking associations,” or to “associations,” apply to all associations organized to carry on the business of banking under any Act of Congress.

(R.S. §5157.)

REFERENCES IN TEXT

Chapters 2, 3, and 4 of title 62 of the Revised Statutes, referred to in text, was in the original “chapters two, three, and four of this Title,” meaning chapters 2, 3, and 4 of title 62 of the Revised Statutes, consisting of R.S. §§5157 to 5244, which are classified to sections 26 to 28, 37, 43, 55, 56, 60, 62, 81, 83 to 86, 89, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 163, 164, 168 to 175, 181 to 186, 192 to 196, 481 to 485, 501, 541, 547, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5157 to 5244 to the Code, see Tables.

CROSS REFERENCES

Federal Home Loan Bank, see section 1421 et seq. of this title.

Federal Reserve System, see section 221 et seq. of this title.

§ 38. The National Bank Act

The Act entitled “An Act to provide a national currency secured by a pledge of United

States bonds, and to provide for the circulation and redemption thereof,” approved June 3, 1864, shall be known as “The National Bank Act.”

(June 20, 1874, ch. 343, §1, 18 Stat. 123.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended. The act was incorporated into the Revised Statutes as R.S. §§324 to 331, 333, 380, 563, 629, 736, 884, 885, 3473, 3475, 3651, 5133 to 5154, 5156, 5158 to 5170, 5172, 5173, 5175, 5177, 5182 to 5184, 5187, 5189, 5190 to 5192, 5195 to 5204, 5206, 5209 to 5211, 5214 to 5217, 5219 to 5222, 5224 to 5242, 5417, which are classified to sections 1 to 4, 8, 11 to 14, 21, 22 to 24, 26 to 29, 35, 39, 51, 52, 53, 54, 56, 57, 59 to 63, 66, 71, 72 to 76, 81 to 91, 93, 94, 101a, 102, 104, 107, 109, 110, 123, 124, 131 to 138, 141 to 144, 161, 165, 168 to 175, 181 to 183, 185, 186, 192 to 196, 481 to 485, 541, 544 to 546, 548, 581 and 592 of this title, section 197 of Title 19, Customs Duties, and section 543 of former Title 31, Money and Finance. See, also, sections 8, 333, 334, 471, 472, 656, and 1005 of Title 18, Crimes and Criminal Procedure, and sections 507, 1348, 1394, and 1733 of Title 28, Judiciary and Judicial Procedure.

§ 39. Reservation of rights of associations organized under Act of 1863

Nothing in title 62 of the Revised Statutes shall affect any appointments made, acts done, or proceedings had or commenced prior to the third day of June 1864, in or toward the organization of any national banking association under the act of February 25, 1863; but all associations which, on the third day of June 1864, were organized or commenced to be organized under that act, shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by title 62 of the Revised Statutes, notwithstanding all the steps prescribed by title 62 of the Revised Statutes for the organization of associations were not pursued, if such associations were duly organized under that act.

(R.S. §5156.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original “this Title” meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

Act of February 25, 1863, referred to in text, was act Feb. 25, 1863, ch. 58, 12 Stat. 665, which was the original National Bank Act, and was repealed by act June 3, 1864, ch. 106, §62, 13 Stat. 118.

CODIFICATION

R.S. §5156 derived from act June 3, 1864, ch. 106, §62, 13 Stat. 118, which was the National Bank Act. See section 38 of this title.

§ 40. Virgin Islands; extension of National Bank Act

The National Bank Act, as amended [12 U.S.C. 21 et seq.], and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable after July 19, 1932, apply to the Virgin Islands of the United States.

(July 19, 1932, ch. 508, 47 Stat. 703.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

§ 41. Guam; extension of National Bank Act

The National Bank Act [12 U.S.C. 21 et seq.], and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable after August 1, 1956, apply to Guam.

(Aug. 1, 1956, ch. 852, § 2, 70 Stat. 908.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

§ 42. Territorial application

The provisions of all Acts of Congress relating to national banks shall apply in the several States, the District of Columbia, the several Territories and possessions of the United States, and the Commonwealth of Puerto Rico.

(Pub. L. 86-230, § 14, Sept. 8, 1959, 73 Stat. 458.)

CODIFICATION

Section is also set out in D.C. Code, § 47-2508.

§ 43. Interpretations concerning preemption of certain State laws

(a) Notice and opportunity for comment required

Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 36(f)(1)(A)(ii) of this title, the appropriate Federal banking agency (as defined in section 1813 of this title) shall—

(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

(2) give interested parties not less than 30 days in which to submit written comments; and

(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 36(f)(1)(A)(ii) of this title, consider any comments received.

(b) Publication required

The appropriate Federal banking agency shall publish in the Federal Register—

(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

(2) any determination under section 36(f)(1)(A)(ii) of this title.

(c) Exceptions

(1) No new issue or significant basis

This section shall not apply with respect to any opinion letter or interpretive rule that—

(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

(2) Judicial, legislative, or intragovernmental materials

This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

(3) Emergency

The appropriate Federal banking agency may make exceptions to subsection (a) of this section if—

(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

(B) the opinion letter or interpretive rule is issued in connection with—

(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 1813 of this title); or

(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under section 1823(c) of this title.

(R.S. § 5244, as added Pub. L. 103-328, title I, § 114, Sept. 29, 1994, 108 Stat. 2366.)

CODIFICATION

Another R.S. § 5244 is classified to section 8 of Title 33, Navigation and Navigable Waters.

SUBCHAPTER II—CAPITAL, STOCK, AND STOCKHOLDERS

§ 51. Requisite of capital and surplus

After this section as amended takes effect no national banking association shall be organized with a less capital than \$100,000, except that such associations with a capital of not less than \$50,000 may be organized in any place the population of which does not exceed six thousand inhabitants. No such association shall be organized in a city the population of which exceeds fifty thousand persons with a capital of less than \$200,000, except that in the outlying districts of such a city where the State laws permit the organization of State banks with a capital of \$100,000 or less, national banking associations now organized or hereafter organized may, with the approval of the Comptroller of the Currency, have a capital of not less than \$100,000. No such association shall hereafter be authorized to commence the business of banking until it shall have a paid-in surplus equal to 20 per centum of

its capital: *Provided*, That the Comptroller of the Currency may waive this requirement as to a State bank converting into a national banking association, but each such State bank which is converted into a national banking association shall, before the declaration of a dividend on its shares of common stock, carry not less than one-half part of its net profits of the preceding half year to its surplus fund until it shall have a surplus equal to 20 per centum of its capital: *Provided*, That for the purposes of this section any amounts paid into a fund for the retirement of any preferred stock of any such converted State bank out of its net earnings for such half-year period shall be deemed to be an addition to its surplus fund if, upon the retirement of such preferred stock, the amount so paid into such retirement fund for such period may then properly be carried to surplus. In any such case the converted State bank shall be obligated to transfer to surplus the amount so paid into such retirement fund for such period on account of the preferred stock as such stock is retired.

(R.S. § 5138; Mar. 14, 1900, ch. 41, § 10, 31 Stat. 48; Feb. 25, 1927, ch. 191, § 4, 44 Stat. 1227; June 16, 1933, ch. 89, § 17(a), 48 Stat. 185; Aug. 23, 1935, ch. 614, title III, § 309, 49 Stat. 709.)

CODIFICATION

R.S. § 5138 derived from act June 3, 1864, ch. 106, § 7, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, added last two sentences.

1933—Act June 16, 1933, inserted in first sentence “After this section as amended takes effect,” and omitted therefrom exception clause permitting organization of banks with a capital of not less than \$25,000 in places of not more than 3,000 inhabitants.

1927—Act Feb. 25, 1927, added exception clause in second sentence.

EFFECTIVE DATE OF 1933 AMENDMENT

Words “After this section as amended takes effect” are from amendment of June 16, 1933, which took effect on June 16, 1933.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 51a. Preferred stock; issuance authorized

Notwithstanding any other provision of law any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice given by registered mail or by certified mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized national banking association which has not yet is-

sued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such issue of preferred stock and his approval thereof and that the amount has been duly paid in as a part of the capital of such association; which certificate shall be deemed to be conclusive evidence that such preferred stock has been duly and validly issued.

(Mar. 9, 1933, ch. 1, title III, § 301, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 147; Aug. 23, 1935, ch. 614, title III, § 336, 49 Stat. 720; June 11, 1960, Pub. L. 86-507, § 1(9), 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86-507 inserted “or by certified mail” after “registered mail”.

1935—Act Aug. 23, 1935, amended last sentence generally.

1933—Act June 15, 1933, struck out all of former section and inserted a new section which incorporated all former provisions and inserted “of one or more classes,” in first sentence.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51c, 212, 213 of this title.

§ 51b. Dividends, voting, and retirement of preferred stock; individual liability

(a) Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends and shall have such voting and conversion rights and such control of management, and such stock shall be subject to retirement in such manner and upon such conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency. The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such association, and shall not be liable for assessments to restore impairments in the capital of such association as now provided by law with reference to holders of common stock.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the association is placed in voluntary liquidation or a conservator or a receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have

been paid in full the par value of such stock plus all accumulated dividends.

(Mar. 9, 1933, ch. 1, title III, § 302, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 148; Mar. 31, 1980, Pub. L. 96-221, title VII, § 702, 94 Stat. 186.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-221 struck out limitation on payment of cumulative dividends at a rate not exceeding 6 per centum per annum.

1933—Subsec. (a). Act June 15, 1933, struck out former subsec. (a) and inserted a new subsec. (a) which incorporated all former provisions and inserted “Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise” and “and conversion rights,” in first sentence.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51c, 62, 212, 213 of this title.

§ 51b-1. Consideration of preferred stock in determining impairment of capital; dividends; retirement

If any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock. If any such bank or trust company shall have outstanding any capital notes or debentures of the type which the Reconstruction Finance Corporation is authorized to purchase pursuant to the provisions of section 51d of this title, the capital of such bank may be deemed to be unimpaired if the sound value of its assets is not less than its total liabilities, including capital stock, but excluding such capital notes or debentures and any obligations of the bank expressly subordinated thereto. Notwithstanding any other provision of law, the holders of preferred stock issued by a national banking association pursuant to the provisions of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, shall be entitled to receive such cumulative dividends on the purchase price received by the association for such stock and, in the event of the retirement of such stock, to receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided in the articles of association with the approval of the Comptroller of the Currency. If the association is placed in voluntary liquidation, or if a conservator or a receiver is appointed therefor, no payment shall

be made to the holders of common stock until the holders of preferred stock shall have been paid in full such amount as may be provided in the articles of association with the approval of the Comptroller of the Currency, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

(Aug. 23, 1935, ch. 614, title III, § 345, 49 Stat. 722; Mar. 31, 1980, Pub. L. 96-221, title VII, § 703, 94 Stat. 186.)

REFERENCES IN TEXT

Section 51d of this title, referred to in text, which was section 304 of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, ch. 1, 48 Stat. 6, as amended, and which authorized the Reconstruction Finance Corporation, upon the request of the Secretary of the Treasury approved by the President, to purchase, or to make loans upon, the capital stock of any bank or trust company requiring funds for capital purposes in connection with its organization or reorganization, and which made provision for the purchase of the capital notes of banks organized in States which subject holders of preferred stock to double liability and for the sale of any stock or notes purchased under such authority, was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (c), 61 Stat. 208. However, according to the information received from the Department of the Treasury, the second sentence of this section is not obsolete even though it contains such obsolete reference to section 51d of this title, and even though, under 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, the Reconstruction Finance Corporation was abolished, for many banks have outstanding debentures which they obtained pursuant to the provisions of section 51d, and which they are not required to redeem; and their benefits or entitlements conferred by the second sentence of this section will remain until the debentures are redeemed.

The Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, as amended, which is classified to sections 51a, 51b, 51c, 51d, 95 to 95b, 201 to 212, 248, 347b, 347c, 347d, and 445 of this title and section 5 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1980—Pub. L. 96-221 struck out limitation on payment of cumulative dividends at a rate not exceeding 6 per centum per annum.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 51c. “Common stock”, “capital”, and “capital stock” defined

The term “common stock” as used in sections 51a, 51b, 51c, and 51d¹ of this title means stock of national banking associations other than preferred stock issued under the provisions of said sections. The term “capital” as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired; and the term “capital stock”, as used in sections 101, 177, and 178¹ of this title, shall mean only the amount of common stock outstanding.

(Mar. 9, 1933, ch. 1, title III, § 303, 48 Stat. 5.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 51d of this title, referred to in text, was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see note under section 51b-1 of this title.

Sections 101, 177, and 178 of this title, referred to in text, were repealed by Pub. L. 103-325, title VI, § 602(f)(2), (5), Sept. 23, 1994, 108 Stat. 2292, 2293.

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213 of this title.

§§ 51d to 51f. Repealed. June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208

Section 51d, acts Mar. 9, 1933, ch. 1, title III, § 304, 48 Stat. 6; Mar. 24, 1933, ch. 8, § 2, 48 Stat. 21; Mar. 20, 1936, ch. 160, § 1, 49 Stat. 1185; June 25, 1940, ch. 427, § 1, 54 Stat. 572, related to subscription for and sale of preferred stock in banks by the Reconstruction Finance Corporation.

Sections 51e and 51f, act Mar. 20, 1936, ch. 160, §§ 2, 3, 49 Stat. 1185, related to rate of interest on loans and separability provisions.

§ 52. Par value and incidents of stock; transfer of shares

The capital stock of each association shall be divided into shares of \$100 each, or into shares of such less amount as may be provided in the articles of association, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

Certificates issued after August 23, 1935, representing shares of stock of the association shall state (1) the name and location of the association, (2) the name of the holder of record of the stock represented thereby, (3) the number and class of shares which the certificate represents, and (4) if the association shall issue stock of more than one class, the respective rights, preferences, privileges, voting rights, powers, restrictions, limitations, and qualifications of each class of stock issued shall be stated in full or in summary upon the front or back of the certificates or shall be incorporated by a reference to the articles of association set forth on the front of the certificates. Every certificate shall be signed by the president and the cashier of the association, or by such other officers as the by-laws of the association shall provide, and shall be sealed with the seal of the association.

After August 23, 1935, no certificate evidencing the stock of any such association shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such association, nor shall the ownership, sale, or transfer of any cer-

tificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such association: *Provided*, That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a national banking association.

(R.S. § 5139; Feb. 25, 1927, ch. 191, § 16, 44 Stat. 1233; June 16, 1933, ch. 89, § 18, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, §§ 310(a), 335, 49 Stat. 710, 720.)

CODIFICATION

R.S. § 5139 derived from act June 3, 1864, ch. 106, § 12, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 335, added second par.

Act Aug. 23, 1935, § 310(a), among other changes in last par., inserted proviso.

1933—Act June 16, 1933, added last par.

1927—Act Feb. 25, 1927, inserted “or into shares of such less amount as may be provided in the articles of association” in first sentence.

§ 53. When capital stock paid in

All of the capital stock of every national banking association shall be paid in before it shall be authorized to commence business.

(R.S. § 5140; Pub. L. 86-230, § 4, Sept. 8, 1959, 73 Stat. 457.)

CODIFICATION

R.S. § 5140 derived from act June 3, 1864, ch. 106, § 14, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-230 substituted requirement that all the capital stock of a national bank must be paid in before it commences business for permissive authority to be open for business upon payment of 50 per centum of the capital stock and installment payment of the remaining 50 per centum.

§ 54. Repealed. Pub. L. 86-230, § 5, Sept. 8, 1959, 73 Stat. 457

Section, R.S. § 5141, related to failure to pay installments, remedy and effect if reduction of capital resulted.

§ 55. Enforcing payment of deficiency in capital stock; assessments; liquidation; receivership

Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency, pay the deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust

for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section 192 of this title. *And provided*, That if any shareholder or shareholders of such bank shall neglect or refuse, after three months' notice to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days' notice shall be given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto), to make good the deficiency, and the balance, if any, shall be returned to such delinquent shareholder or shareholders.

(R.S. §5205; June 30, 1876, ch. 156, §4, 19 Stat. 64.)

CODIFICATION

R.S. §5205 derived from act Mar. 3, 1873, ch. 269, §1, 17 Stat. 603.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567 (D.C. Code, §26-104).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 197 of this title.

§ 56. Prohibition on withdrawal of capital; unearned dividends

No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its undivided profits, subject to other applicable provisions of law. But nothing in this section shall prevent the reduction of the capital stock of the association under section 59 of this title.

(R.S. §5204; Pub. L. 103-325, title VI, §602(h)(1), Sept. 23, 1994, 108 Stat. 2294.)

CODIFICATION

R.S. §5204 derived from act June 3, 1864, ch. 106, §38, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 substituted “undivided profits, subject to other applicable provisions of law” for “net

profits then on hand, deducting therefrom its losses and bad debts” in second sentence and struck out after second sentence “All debts due to any associations, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 324 of this title.

§ 57. Increase of capital by provision in articles of association

Any national banking association may, with the approval of the Comptroller of the Currency, and by a vote of shareholders owning two-thirds of the stock of such associations, increase its capital stock to any sum approved by the said comptroller, but no increase in capital shall be valid until the whole amount of such increase is paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase in capital stock and his approval thereof, and that it has been duly paid in as part of the capital of such association: *Provided, however*, That a national banking association may, with the approval of the Comptroller of the Currency, and by the vote of shareholders owning two-thirds of the stock of such association, increase its capital stock by the declaration of a stock dividend, provided that the surplus of said association, after the approval of the increase, shall be at least equal to 20 per centum of the capital stock as increased. Such increase shall not be effective until a certificate certifying to such declaration of dividend, signed by the president, vice president, or cashier of said association and duly acknowledged before a notary public, shall have been forwarded to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase of capital stock by stock dividend, and his approval thereof.

(R.S. §5142; Feb. 25, 1927, ch. 191, §5, 44 Stat. 1227.)

CODIFICATION

R.S. §5142 derived from act June 3, 1864, ch. 106, §13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, inserted proviso.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 58. Repealed. Pub. L. 86-230, § 6, Sept. 8, 1959, 73 Stat. 457

Section, act May 1, 1886, ch. 73, §1, 24 Stat. 18, related to increase of capital by vote of shareholders. See section 57 of this title.

§ 59. Reduction of capital by vote of shareholders

Any association formed under title 62 of the Revised Statutes may, by the vote of shareholders

ers owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by title 62 of the Revised Statutes to authorize the formation of associations; but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and such reduction has been approved by said Comptroller of the Currency and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes.

(R.S. §5143; Dec. 23, 1913, ch. 6, §28, 38 Stat. 274; Aug. 23, 1935, ch. 614, title III, §334, 49 Stat. 720.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5143 derived from act June 3, 1864, ch. 106, §13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, substituted "and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes" for "and by the Federal Reserve Board or by the organization committee pending the organization of the Federal Reserve Board".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 56 of this title.

§ 60. Dividends

(a) Periodic declaration; surplus fund

The directors of any national banking association may, quarterly, semiannually or annually, declare a dividend of so much of the undivided profits of the association, subject to the limitations in subsection (b) of this section, as they shall judge expedient, except that until the surplus fund of such association shall equal its common capital, no dividends shall be declared unless there has been carried to the surplus fund

not less than one-tenth part of the association's net income of the preceding half year in the case of quarterly or semiannual dividends, or not less than one-tenth part of its net income of the preceding two consecutive half-year periods in the case of annual dividends: *Provided*, That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such association out of its net income for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the association shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired.

(b) Approval of Comptroller

The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by such association in any calendar year shall exceed the total of its net income of that year combined with its retained net income of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock.

(R.S. §5199; Aug. 23, 1935, ch. 614, title III, §315, 49 Stat. 712; Sept. 8, 1959, Pub. L. 86-230, §21(a), 73 Stat. 465; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(h)(2), 108 Stat. 2294.)

CODIFICATION

R.S. §5199 derived from act June 3, 1864, ch. 106, §33, 13 Stat. 109, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-325, §602(h)(2)(A), (B), substituted "undivided profits of the association, subject to the limitations in subsection (b) of this section," for "net profits of the association" in first sentence and "net income" for "net profits" wherever subsequently appearing.

Subsec. (b). Pub. L. 103-325, §602(h)(2)(B), substituted "net income" for "net profits" in two places.

Subsec. (c). Pub. L. 103-325, §602(h)(2)(C), struck out subsec. (c) which read as follows: "For the purpose of this section the term 'net profits' shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes."

1959—Pub. L. 86-230 designated existing provisions as subsec. (a), authorized the declaration of dividends, quarterly and annually, when at least one-tenth of the bank's net profits of the preceding half year or of the preceding two consecutive half-year periods has been carried to the surplus fund, respectively, and added subsecs. (b) and (c).

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

CROSS REFERENCES

Dividends on preferred stock, see section 51b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 324 of this title.

§ 61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares

In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

(R.S. § 5144; June 16, 1933, ch. 89, § 19, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, § 311, 49 Stat. 710; Sept. 3, 1954, ch. 1263, § 21, 68 Stat. 1234; July 28, 1959, Pub. L. 86-114, § 4, 73 Stat. 264; July 1, 1966, Pub. L. 89-485, § 13(c), 80 Stat. 242.)

CODIFICATION

R.S. § 5144 derived from act June 3, 1864, ch. 106, § 11, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1966—Pub. L. 89-485 struck out: clause (4) requirement of a voting permit from the Board for voting shares controlled by a holding company affiliate of a national bank except when voting in favor of voluntary liquidation of an association; second par. definition of control of shares by a holding company affiliate; third par. prescribing procedure for obtaining a voting permit: application to Board, grant or denial of permit in the public interest, factors for consideration, and conditions described in subsecs. (a) to (e) for granting a permit; subsec. (a) requirement of agreement of the holding company affiliate to an examination of the affiliate by bank examiners, reports by such examiners, examination of affiliated banks, and publication of individual

or consolidated statements of condition of such banks; subsec. (b) provisions for possession of readily marketable assets other than bank stock and reinvestment of a prescribed amount of net earnings in such assets; subsec. (c) provisions for reserve of assets, use of assets for capital replacement, and situations involving more than one holding company affiliate; subsec. (d) provisions for penalties for false entries; subsec. (e) requirements for disclosure in application of a absence of securities company status and for declaration of dividends out of net earnings; penultimate par. prescribing procedure for revocation of voting permit and prohibiting the use of the bank as a depository for public moneys of the United States and payment of dividends to the affiliate; and last par. authorization for forfeiture of rights, privileges, and franchises of national banks.

1959—Subsec. (c). Pub. L. 86-114 authorized the Board to designate one of the chain of holding company affiliates which would have to maintain the 12 percent reserve and exempted the other holding company affiliates from the requirement.

1954—Subsec. (d). Act Sept. 3, 1954, substituted "section 1005 of Title 18" for "section 592 of this title".

1935—Act Aug. 23, 1935, amended first par., first sentence of third par., and inserted "and the provisions of this subsection, instead of subsection (b), shall apply to all holding company affiliates with respect to any shares of bank stock owned or controlled by them as to which there is no statutory liability imposed upon the holders of such bank stock" at end of subsec. (c).

1933—Act June 16, 1933, inserted provisions for cumulative voting of shares or distribution of votes on a cumulative voting principle, prohibited national banks holding their own shares as sole trustee from voting such shares but permitted such shares to be voted when held by another person or persons as trustees with the bank, denied voting rights to shares controlled by a holding company affiliate of a national bank unless a voting permit was first obtained, provided for application for a voting permit to the Federal Reserve Board, specified conditions for granting the voting permit and procedure for its revocation, and authorized the forfeiture of a National Bank's rights, privileges, and franchises upon such revocation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 601.

§ 62. List of shareholders

The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted. A copy of such list, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency within ten days of any demand therefor made by him.

(R.S. § 5210; May 18, 1953, ch. 59, § 1, 67 Stat. 27.)

CODIFICATION

R.S. § 5210 derived from act June 3, 1864, ch. 106, § 40, 13 Stat. 111, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1953—Act May 18, 1953, changed the requirement for annual transmission of a copy of the shareholders list to the Comptroller of the Currency by authorizing the Comptroller to acquire such copy at any time on 10 days' notice.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567 (D.C. Code, §26-104).

§§ 63, 64. Repealed. Pub. L. 86-230, §7, Sept. 8, 1959, 73 Stat. 457

Section 63, R.S. §5151, related to individual liability of shareholders.

Section 64, act Dec. 23, 1913, ch. 6, §23, 38 Stat. 273, related to transfer of shares as affecting individual liability of shareholders. Limitation on liability of shareholders, see section 64a of this title.

The status of former section 63 of this title had been doubtful. At different times it had been held to have been repealed, superseded, and superseded only in part by former section 64 of this title which related to the same subject. See *American T. Co. v. Grut*, C.C.A. 1935, 80 F.2d 155; *Miller v. Hamner*, C.C.A. 1920, 269 F. 891; and *First Nat. Bank v. First Nat. Bank*, D.C. 1926, 14 F.2d 129.

§ 64a. Individual liability of shareholders; limitation on liability

The additional liability imposed upon shareholders in national banking associations by the provisions of sections 63 and 64 of this title shall not apply with respect to shares in any such association issued after June 16, 1933. Such additional liability shall cease on July 1, 1937, with respect to all shares issued by any association which shall be transacting the business of banking on July 1, 1937: *Provided*, That not less than six months prior to such date, such association shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such association is located, and if no newspaper is published in such city, town, or county, then in a newspaper of general circulation therein. If the association fail¹ to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six month² subsequent to publication in the manner above provided. In the case of each association which has not caused notice of such prospective termination of liability to be published prior to May 18, 1953, the Comptroller of the Currency shall cause such notice to be published in the manner provided in this section, and on the date six months subsequent to such publication by the Comptroller of the Currency such additional liability shall cease.

(June 16, 1933, ch. 89, §22, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §304, 49 Stat. 708; May 18, 1953, ch. 59, §2, 67 Stat. 27.)

REFERENCES IN TEXT

Sections 63 and 64 of this title, referred to in text, were repealed by Pub. L. 86-230, §7, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

1953—Act May 18, 1953, provided for termination of the additional liability, referred to in the section, by

¹ So in original. Probably should be "fails".

² So in original. Probably should be "months".

action of the Comptroller of the Currency with regard to those associations which had not, prior to May 18, 1953, caused notice of termination to be published.

1935—Act Aug. 23, 1935, added second and third sentences.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 65. Repealed. Pub. L. 86-230, §8, Sept. 8, 1959, 73 Stat. 457

Section, acts June 30, 1876, ch. 156, §2, 19 Stat. 63; Sept. 3, 1954, ch. 1263, §22, 68 Stat. 1234, related to enforcement of shareholders' individual liability by creditors on liquidation. Limitation on liability of shareholders, see section 64a of this title.

§ 66. Personal liability of representatives of stockholders

Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be, if living and competent to act and hold the stock in his own name.

(R.S. §5152.)

CODIFICATION

R.S. §5152 derived from act June 3, 1864, ch. 106, §63, 13 Stat. 118, which was the National Bank Act. See section 38 of this title.

§ 67. Individual liability of shareholders; compromises; authority of receiver

Any receiver of a national banking association is authorized, with the approval of the Comptroller of the Currency and upon the order of a court of record of competent jurisdiction, to compromise, either before or after judgment, the individual liability of any shareholder of such association.

(Feb. 25, 1930, ch. 58, 46 Stat. 74.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567 (D.C. Code, §26-104).

SUBCHAPTER III—DIRECTORS

§ 71. Election

The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking; and afterward at meetings to be held on such day of each year as is specified therefor in the bylaws. The directors shall hold office for one year, and until their successors are elected and have qualified.

(R.S. §5145; Pub. L. 88-232, §1, Dec. 23, 1963, 77 Stat. 472.)

CODIFICATION

R.S. §5145 derived from act June 3, 1864, ch. 106, §§9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1963—Pub. L. 88-232 substituted “on such day of each year as is specified therefor in the bylaws” for “on such day in January of each year as is specified therefor in the articles of association”.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 71a. Number of directors; penalties

After one year from June 16, 1933, notwithstanding any other provision of law, the board of directors, board of trustees, or other similar governing body of every national banking association and of every State bank or trust company which is a member of the Federal Reserve System shall consist of not less than five nor more than twenty-five members. If any national banking association violates the provisions of this section and continues such violation after thirty days' notice from the Comptroller of the Currency, the said Comptroller may appoint a receiver or conservator therefor, in accordance with the provisions of existing law. If any State bank or trust company which is a member of the Federal Reserve System violates the provisions of this section and continues such violation after thirty days' notice from the Board of Governors of the Federal Reserve System, it shall be subject to the forfeiture of its membership in the Federal Reserve System in accordance with the provisions of section 327 of this title.

(June 16, 1933, ch. 89, §31, 48 Stat. 194; June 16, 1934, ch. 546, §4, 48 Stat. 971; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §306, 49 Stat. 704, 708.)

AMENDMENTS

1935—Act June 16, 1934, as amended by act Aug. 23, 1935, §306, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of any national banking association, or of any State bank or trust company which is a member of the Federal Reserve System.

1934—Act June 16, 1934, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of member banks of the Federal Reserve System.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Interlocking directorates of banks, banking associations, and trust companies, see section 19 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 72. Qualifications

Every director must, during his whole term of service, be a citizen of the United States, and at least a majority of the directors must have resided in the State, Territory, or District in which the association is located, or within one hundred miles of the location of the office of the association, for at least one year immediately preceding their election, and must be residents of such State or within one-hundred-mile territory of the location of the association during their continuance in office, except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors. Every director must own in his or her own right either shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than \$1,000, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 1841 of this title. If the capital of the bank does not exceed \$25,000, every director must own in his or her own right either shares of such capital stock the aggregate par value of which is not less than \$500, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 1841 of this title. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

(R.S. §5146; Feb. 28, 1905, ch. 1163, 33 Stat. 818; Mar. 1, 1921, ch. 100, 41 Stat. 1199; Feb. 25, 1927, ch. 191, §17, 44 Stat. 1233; Apr. 27, 1956, ch. 215, 70 Stat. 119; Sept. 17, 1978, Pub. L. 95-369, §2, 92 Stat. 608; Mar. 31, 1980, Pub. L. 96-221, title VII, §710, 94 Stat. 189; Sept. 23, 1994, Pub. L. 103-325, title III, §313, 108 Stat. 2221.)

CODIFICATION

R.S. §5146 derived from act June 3, 1864, ch. 106, §§9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325, which directed the substitution of “a majority” for “two thirds”, was executed by making the substitution for “two-thirds” in first sentence to reflect the probable intent of Congress.

1980—Pub. L. 96-221 inserted provisions setting forth additional ownership requirements with respect to equivalent interest determinations by the Comptroller of the Currency.

1978—Pub. L. 95-369 authorized the Comptroller of the Currency, in case of associations which are subsidiaries of affiliates of foreign banks, to waive citizenship requirements of not more than a minority of the total number of directors.

1956—Act Apr. 27, 1956, substituted “two-thirds”, “one hundred”, “one-hundred-mile”, for “three-fourths”, “fifty”, and “fifty-mile”, respectively.

1927—Act Feb. 25, 1927, substituted a minimum value of stock ownership for minimum number of shares in both instances.

CROSS REFERENCES

Interlocking directorates of banks, banking associations, and trust companies, see section 19 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 73. Oath

Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated any of the provisions of title 62 of the Revised Statutes, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by title 62 of the Revised Statutes, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt. The oath shall be taken before a notary public, properly authorized and commissioned by the State in which he resides, or before any other officer having an official seal and authorized by the State to administer oaths, except that the oath shall not be taken before any such notary public or other officer who is an officer of the director's bank. The oath, subscribed by the director making it, and certified by the notary public or other officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency and shall be filed and preserved in his office for a period of ten years.

(R.S. § 5147; Feb. 20, 1925, ch. 274, 43 Stat. 955.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original “this Title” meaning title 62 of the Revised Statutes, consisting of R.S. §§ 5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. § 5147 derived from act June 3, 1864, ch. 106, § 9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 74. Vacancies

Any vacancy in the board shall be filled by appointment by the remaining directors, and any

director so appointed shall hold his place until the next election.

(R.S. § 5148.)

CODIFICATION

R.S. § 5148 derived from act June 3, 1864, ch. 106, § 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 75. Legal holiday, annual meeting on; proceedings where no election held on proper day

When the day fixed in the bylaws for the regular annual meeting of the shareholders falls on a legal holiday in the State in which the bank is located, the shareholders meeting shall be held, and the directors elected, on the next following banking day. If, from any cause, an election of directors is not made on the day fixed, or in the event of a legal holiday, on the next following banking day, an election may be held on any subsequent day within sixty days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by shareholders representing two-thirds of the shares, at least ten days' notice thereof in all cases having been given by first-class mail to the shareholders.

(R.S. § 5149; Pub. L. 86-230, § 9, Sept. 8, 1959, 73 Stat. 457; Pub. L. 88-232, § 2, Dec. 23, 1963, 77 Stat. 472.)

CODIFICATION

R.S. § 5149 derived from act June 3, 1864, ch. 106, § 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1963—Pub. L. 88-232 substituted “bylaws” for “articles of association”.

1959—Pub. L. 86-230 provided that when the day fixed for the regular annual meeting of the shareholders falls on a legal holiday, the meeting shall be held on the next following banking day and authorized election of directors to be held within sixty days of a fixed day upon ten days' notice to the shareholders by first-class mail instead of upon thirty days' notice in newspaper and at a date designated in the articles or bylaws or by the shareholders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title.

§ 76. President of bank as member of board; chairman of board

The president of the bank shall be a member of the board and shall be the chairman thereof, but the board may designate a director in lieu of the president to be chairman of the board, who shall perform such duties as may be designated by the board.

(R.S. § 5150; Feb. 25, 1927, ch. 191, § 6, 44 Stat. 1228.)

CODIFICATION

R.S. § 5150 derived from act June 3, 1864, ch. 106, § 9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, amended section generally. Prior to amendment, section read as follows: “One of

the directors, to be chosen by the board, shall be president of the board.”

§ 77. Repealed. Pub. L. 89-695, title II, § 207, Oct. 16, 1966, 80 Stat. 1055

Section, act June 16, 1933, ch. 89, § 30, 48 Stat. 193, provided authority for removal of directors or officers of national banks, District banks, or State member banks for continued violations of law or for continued unsafe or unsound practices in conducting the business of such banks.

CODIFICATION

Section 401 of Pub. L. 89-695, Oct. 16, 1966, 80 Stat. 1056, which provided for reenactment of this section effective upon expiration of the period ending at the close of June 30, 1972, was repealed by Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811.

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL
NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 207 of Pub. L. 89-695 repealing this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

§ 78. Certain persons excluded from serving as officers, directors or employees of member banks

No officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve the same time as an officer, director, or employee of any member bank except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when in the judgment of the said Board it would not unduly influence the investment policies of such member bank or the advice it gives its customers regarding investments.

(June 16, 1933, ch. 89, § 32, 48 Stat. 194; Aug. 23, 1935, ch. 614, § 307, 49 Stat. 709.)

AMENDMENTS

1935—Act Aug. 23, 1935, among other changes, substituted exception clause in place of provisions relating to issuance of permits in such cases and authorizing revocation of same where required in the public interest.

EFFECTIVE DATE OF 1935 AMENDMENT

Amendment by act Aug. 23, 1935, effective Jan. 1, 1936, see section 307 of act Aug. 23, 1935.

SUBCHAPTER IV—REGULATION OF THE
BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

§ 81. Place of business

The general business of each national banking association shall be transacted in the place specified in its organization certificate and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title.

(R.S. § 5190; Feb. 25, 1927, ch. 191, § 8, 44 Stat. 1229.)

CODIFICATION

R.S. § 5190 derived from act June 3, 1864, ch. 106, § 8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, inserted “and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title”.

CROSS REFERENCES

Change of location of business, see section 30 of this title.

Place of business, specification in organization certificate, see section 22 of this title.

§ 82. Repealed. Pub. L. 97-320, title IV, § 402, Oct. 15, 1982, 96 Stat. 1510

Section, R.S. § 5202; Dec. 23, 1913, ch. 6, § 13, 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512; Oct. 22, 1919, ch. 79, § 2, 41 Stat. 297; Mar. 4, 1923, ch. 252, title V, § 504, 42 Stat. 1481; Feb. 25, 1927, ch. 191, § 11, 44 Stat. 1231; Jan. 22, 1932, ch. 8, § 5, formerly § 6, 47 Stat. 8, renumbered and amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 20, 1933, ch. 35, § 2, 48 Stat. 73; June 19, 1934, ch. 653, § 2, 48 Stat. 1107; Sept. 8, 1959, Pub. L. 86-230, § 10, 73 Stat. 458; Sept. 9, 1959, Pub. L. 86-251, § 2, 73 Stat. 488; July 24, 1970, Pub. L. 91-351, title II, § 201(b), 84 Stat. 451; Jan. 4, 1975, Pub. L. 93-646, § 11, 88 Stat. 2337, provided that no national banking association could at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, plus 50 percent of the amount of its unimpaired surplus fund, except on account of demands of the nature following: notes of circulation; moneys deposited with or collected by the association; bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto; liabilities to the stockholders of the association for dividends and reserve profits; liabilities incurred under the provisions of the Federal Reserve Act; liabilities incurred under the provisions of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]; liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing bank and discounted at home or abroad; liabilities incurred under the provisions of sections 1031 to 1033 of this title; liabilities incurred on account of loans made with the express approval of the Comptroller of the Currency under former section 84(9) of this title; liabilities incurred under the provisions of section 352a of this title; liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and liabilities incurred in borrowing from the Export-Import Bank of the United States.

§ 83. Loans on or purchase by bank of own stock

No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to section 192 of this title.

(R.S. § 5201.)

CODIFICATION

R.S. §5201 derived from act June 3, 1864, ch. 106, §35, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

§ 84. Lending limits**(a) Total loans and extensions of credit**

(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

(b) Definitions

For the purposes of this section—

(1) the term “loans and extensions of credit” shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and, to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(2) the term “person” shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(c) Exceptions

The limitations contained in subsection (a) of this section shall be subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

(2) The purchase of bankers’ acceptances of the kind described in section 372 of this title and issued by other banks shall not be subject to any limitation based on capital and surplus.

(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at

all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

(8)(A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2) of this section.

(B) If the bank’s files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

(9)(A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2) of this section, to a maximum limitation equal to 25 per centum of such capital and surplus.

(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cat-

title, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2) of this section, to a limitation of 25 per centum of such capital and surplus.

(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

(d) Authority of Comptroller of the Currency

(1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit.

(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.

(R.S. §5200; June 22, 1906, ch. 3516, 34 Stat. 451; Sept. 24, 1918, ch. 176, §6, 40 Stat. 967; Oct. 22, 1919, ch. 79, §1, 41 Stat. 296; Feb. 25, 1927, ch. 191, §10, 44 Stat. 1229; May 20, 1933, ch. 35, §1, 48 Stat. 73; June 16, 1933, ch. 89, §26(a), 48 Stat. 191; Aug. 23, 1935, ch. 614, title III, §321(b), 49 Stat. 713; June 11, 1942, ch. 404, §8, 56 Stat. 356; July 15, 1949, ch. 338, title VI, §602(b), 63 Stat. 440; July 22, 1937, ch. 517, §15(a), as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1079; amended Aug. 25, 1958, Pub. L. 85-748, §1(c), 72 Stat. 841; Sept. 9, 1959, Pub. L. 86-251, §3, 73 Stat. 488; Sept. 28, 1962, Pub. L. 87-723, §4(c)(4), 76 Stat. 672; May 25, 1967, Pub. L. 90-19, §27(b), 81 Stat. 29; June 23, 1972, Pub. L. 92-318, title I, §133(c)(2), 86 Stat. 270; Oct. 15, 1982, Pub. L. 97-320, title IV, §401(a), 96 Stat. 1508; Jan. 12, 1983, Pub. L. 97-457, §17(a), 96 Stat. 2509.)

REFERENCES IN TEXT

Section 372 of this title, referred to in subsec. (c)(2), was in the original a reference to "section 13 of the Federal Reserve Act". Provisions of section 13 describing bankers' acceptances are classified to section 372 of this title. Other provisions of section 13 are classified to sections 342 to 347, 347c, 347d of this title.

CODIFICATION

R.S. §5200 derived from act June 3, 1864, ch. 106, §29, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1983—Subsec. (b)(1). Pub. L. 97-457 inserted a comma before "to the extent specified by the Comptroller of the Currency".

1982—Pub. L. 97-320 amended section generally. Prior to amendment, section read as follows: "The total obligations to any national banking association of any person, copartnership, association, or corporation shall at no time exceed 10 per centum of the amount of the capital stock of such association actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. The term 'obligations' shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such association and the liability of the indorser, drawer, or guarantor who obtains a loan from

or discounts paper with or sells paper under his guaranty to such association and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest. Such limitation of 10 per centum shall be subject to the following exceptions:

"(1) Obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values shall not be subject under this section to any limitation based upon such capital and surplus.

"(2) Obligations arising out of the discount of commercial or business paper actually owned by the person, copartnership, association, or corporation negotiating the same shall not be subject under this section to any limitation based upon such capital and surplus.

"(3) Obligations drawn in good faith against actually existing values and secured by goods or commodities in process of shipment shall not be subject under this section to any limitation based upon such capital and surplus.

"(4) Obligations as indorser or guarantor of notes, other than commercial or business paper excepted under paragraph (2) of this section, having a maturity of not more than six months, and owned by the person, corporation, association, or copartnership indorsing and negotiating the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

"(5) Obligations in the form of banker's acceptances of other banks of the kind described in section 372 of this title shall not be subject under this section to any limitation based upon such capital and surplus.

"(6) Obligations of any person, copartnership, association or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such obligation, and to an additional increase of limitation of 5 per centum of such capital and surplus in addition to such 25 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 120 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 30 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 125 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 35 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 130 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 40 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 135 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 45 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 140 per centum of the face amount of such addi-

tional obligation, but this exception shall not apply to obligations of any one person, copartnership, association, or corporation arising from the same transactions and/or secured by the identical staples for more than ten months. Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents, warehouse receipts, or other such documents transferring or securing title covering refrigerated or frozen readily marketable staples when such property is fully covered by insurance, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association or corporation arising from the same transactions and/or secured by the identical staples for more than six months.

“(7) Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the notes covered by such documents shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus. Obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which bear a full recourse endorsement or unconditional guarantee of the seller and are secured by the cattle being sold, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

“(8) Obligations of any person, copartnership, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

“(9) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any State, or to any receiver, conservator, or superintendent of banks, or to any other agent, in charge of the business and property of any such association or banking institution, when such loans are approved by the Comptroller of the Currency, shall not be subject under this section to any limitation based upon such capital and surplus.

“(10) Obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve bank or by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States: *Provided*, That such guaranties, agreements, or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty days after demand. The Comptroller of the Currency is authorized to define the terms herein used if and when he may deem it necessary.

“(11) Obligations of a local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) or of a public housing agency (as de-

fined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) which have a maturity of not more than eighteen months shall not be subject under this section to any limitation, if such obligations are secured by an agreement between the obligor agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity, which monies under the terms of said agreement are required to be used for that purpose.

“(12) Obligations insured by the Secretary of Agriculture pursuant to the Bankhead-Jones Farm Tenant Act, as amended [7 U.S.C. 1000 et seq.], or the Act of August 28, 1937, as amended (relating to the conservation of water resources), or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

“(13) Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person, copartnership, association, or corporation transferring the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus: *Provided, however*, That if the bank's files or the knowledge of its officers of the financial condition of each maker of such obligations is reasonably adequate, and upon certification by an officer of the bank designated for that purpose by the board of directors of the bank, that the responsibility of each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each such maker shall be the sole applicable loan limitation: *Provided further*, That such certification shall be in writing and shall be retained as part of the records of such bank.

“(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus.”

1972—Par. (14). Pub. L. 92-318 added par. (14).

1967—Par. (11). Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Housing and Home Finance Administrator or the Public Housing Administration” and “Secretary” for “Administrator or Administration” wherever appearing, respectively.

1962—Par. (12). Pub. L. 87-723 inserted “or title V of the Housing Act of 1949” before “shall be subject under this section”.

1959—Par. (6). Pub. L. 86-251, §3(a), substituted “secured by” for “secured upon” and inserted exception with respect to obligations secured by documents transferring or securing title covering refrigerated or frozen readily marketable staples.

Par. (7). Pub. L. 86-251, §3(b), inserted exception with respect to obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle.

Par. (8). Pub. L. 86-251, §3(c), struck out “in the form of notes” after “corporation”.

Par. (13). Pub. L. 86-251, §3(d), added par. (13).

1958—Par. (12). Pub. L. 85-748 amended section 15(a) of act July 22, 1937, as added by act Aug. 14, 1946, by inserting sentence amending R.S. §5200 by adding par. (12).

1949—Par. (11). Act July 15, 1949, added par. (11).

1942—Par. (10). Act June 11, 1942, added par. (10).

1935—Par. (8). Act Aug. 23, 1935, inserted “Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States”.

1933—Par. (1). Act June 16, 1933, inserted provision relating to obligations of a corporation and its subsidiaries in second sentence.

Par. (9). Act May 20, 1933, added par. (9).
1927—Act Feb. 25, 1927, reenacted section, subdividing it into eight numbered exceptions.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 401(b) of Pub. L. 97-320 provided that: "This section [amending this section] shall take effect upon the expiration of one hundred and eighty days after the date of its enactment [Oct. 15, 1982]."

REPEALS

Repealing provisions of Consolidated Farmers Home Administration Act of 1961 as not having the effect of repealing the amendment to this section enacted by act July 22, 1937, §15(a), as added Aug. 14, 1946, see section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a note under section 1921 of Title 7, Agriculture.

SAVINGS PROVISION

Section 26(b) of act June 16, 1933, provided: "The amendment made by this section [amending this section] shall not apply to such obligations of subsidiaries held by such association on the date this section takes effect."

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §3, 47 Stat. 1567 (D.C. Code, §26-102).

CROSS REFERENCES

Loans, State member banks as subject to limitations and conditions applicable to national banks under par. (8), see section 248 of this title.

Rediscount of notes, drafts, and bills for member banks; limitation of amount, see section 345 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 345, 375b, 1464 of this title.

§ 85. Rate of interest on loans, discounts and purchases

Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the greater, and no more, except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under title 62 of the Revised Statutes. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding 7 per centum, or 1 per centum in excess of the discount rate on ninety day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the great-

er, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. The maximum amount of interest or discount to be charged at a branch of an association located outside of the States of the United States and the District of Columbia shall be at the rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession, or other political subdivision where the branch is located. And the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

(R.S. §5197; June 16, 1933, ch. 89, §25, 48 Stat. 191; Aug. 23, 1935, ch. 614, title III, §314, 49 Stat. 711; Oct. 29, 1974, Pub. L. 93-501, title II, §201, 88 Stat. 1558; Nov. 5, 1979, Pub. L. 96-104, title I, §101, 93 Stat. 789; Dec. 28, 1979, Pub. L. 96-161, title II, §201, 93 Stat. 1235; Mar. 31, 1980, Pub. L. 96-221, title V, §529, 94 Stat. 168.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5197 derived from act June 3, 1864, ch. 106, §30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

Section 201 of Pub. L. 96-161, cited as a credit to this section, was repealed by section 529 of Pub. L. 96-221, effective at the close of Mar. 31, 1980. The amendment of this section by that repealed provision, described in the 1979 Amendments note below, shall continue in effect for limited purposes pursuant to section 529. See Savings Provisions note, describing the provisions of section 529 of Pub. L. 96-221, set out below.

Section 101 of Pub. L. 96-104, cited as a credit to this section, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979. The amendment of this section by that repealed provision, described in the 1979 Amendments note below, shall continue in effect for limited purposes pursuant to section 212 of Pub. L. 96-161. See Savings Provisions note, describing the provisions of section 212 of Pub. L. 96-161, set out below. The amendment by Pub. L. 96-104, §101, was duplicated with identical language in the amendment made by Pub. L. 96-161, §201. See 1979 Amendments note below.

Section 201 of Pub. L. 93-501, cited as a credit to this section, was repealed by Pub. L. 96-104, §1, Nov. 5, 1979, 93 Stat. 789. The amendment of this section by that repealed provision, described in the 1974 Amendment note set out under this section, was duplicated in 1979 with identical language under section 101 of Pub. L. 96-104. See 1979 Amendments note below.

AMENDMENTS

1980—Pub. L. 96-221 repealed Pub. L. 96-104 and title II of Pub. L. 96-161, resulting in the striking out of "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial

paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located," before "whichever may be the greater" in two places. See Codification and 1979 Amendment notes under this section.

1979—Pub. L. 96-161 inserted provisions relating to a 5 per centum interest rate on business or agricultural loans in the amount of \$25,000 or more that were identical to provisions inserted earlier by Pub. L. 96-104. See Codification note above.

Pub. L. 96-104 substituted "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater" for "whichever may be the greater" in two places. See Codification note above.

1974—Pub. L. 93-501 substituted "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater" for "whichever may be the greater" in two places.

1935—Act Aug. 23, 1935, inserted third sentence.

1933—Act June 16, 1933, authorized interest at the alternative rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the Federal Reserve district where the bank is located if greater.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 529 of Pub. L. 96-221 provided that the amendment made by that section is effective at the close of Mar. 31, 1980.

EFFECTIVE DATE OF 1979 AMENDMENTS

Section 207 of Pub. L. 96-161, which provided that amendment by Pub. L. 96-161 was applicable to loans made in any State during the period beginning on Dec. 28, 1979, and ending on the earliest of (1) in the case of a State statute, July 1, 1980; (2) the date, after Dec. 28, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section made by Pub. L. 96-161 to apply with respect to loans made in such State; or (3) the date on which such State certifies that the voters of such State, after Dec. 28, 1979, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendment of this section by Pub. L. 96-161, was repealed by Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168.

Section 107 of Pub. L. 96-104, which provided that amendment by Pub. L. 96-104 was applicable to loans made by any State during the period beginning on Nov. 5, 1979, and ending on the earlier of July 1, 1981, or the date after Nov. 5, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section to apply with respect to loans made in such State, or the date on which such State certifies that the voters of such State have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment of the constitution of such State, which prohibits the charging of interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-161, title II, § 212, Dec. 28, 1979, 93 Stat. 1239.

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Section 206 of Pub. L. 93-501, which provided that amendment by Pub. L. 93-501 applicable to loans made in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977, or the date (after Oct. 29, 1974) of enactment by the state of a law prohibiting the charging of

interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-104, § 1, Nov. 5, 1979, 93 Stat. 789.

SAVINGS PROVISIONS

Section 529 of Pub. L. 96-221 provided in part that, notwithstanding the repeal of Pub. L. 96-104 and title II of Pub. L. 96-161, the provisions added to this section by those repealed laws shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions were in effect in such State.

Section 212 of Pub. L. 96-161 provided in part that, notwithstanding the repeal, effective at the close of Dec. 27, 1979, of Pub. L. 96-104 [which had enacted sections 86a, 371b-1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title and section 687 of Title 15, Commerce and Trade, repealed sections 371b-1, 1730e, and 1831a of this title and notes set out under sections 371b-1 and 1831a of this title, and enacted provisions set out as notes under this section and sections 86a, 371b-1, and 1831a of this title], the amendment which had been made by title I of Pub. L. 96-104 and the provisions of that title would continue to apply to any loan made in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96-104, and that the amendments made by title II of Pub. L. 96-104 would continue to apply to any deposit made or obligation issued in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96-104.

Section 1 of Pub. L. 96-104 provided in part that, notwithstanding the repeal of titles II and III of Pub. L. 93-501 [which had enacted sections 371b-1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title, and section 687 of Title 15, Commerce and Trade, and enacted provisions set out as notes under sections 371b-1 and 1831a of this title], the amendments which had been made by title II of that Act and the provisions of such title would continue to apply to any loan made in any State during the period specified in section 206 of such Act [set out as a note under section 1831a of this title] and that the amendments which had been made by title III of such Act would continue to apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act [set out as a note under section 371b-1 of this title].

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221 [enacting sections 86a, 1730g, 1735f-7a, 1785(g), and 1831d of this title and section 687(i) of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f-7 of this title], section 1735f-7 of this title, or any other provisions of law, including this section, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

STATES HAVING CONSTITUTIONAL PROVISIONS REGARDING MAXIMUM INTEREST RATES

Section 213 of Pub. L. 96-161 provided that the provisions of title II of Pub. L. 96-161, which amended this section, repealed provisions which had formerly amended this section, and enacted provisions set out as notes under this section, to continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 86 of this title.

§ 86. Usurious interest; penalty for taking; limitations

The taking, receiving, reserving, or charging a rate of interest greater than is allowed by sec-

tion 85 of this title, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred.

(R.S. § 5198.)

CODIFICATION

R.S. § 5198 (less last sentence) derived from act June 3, 1864, ch. 106, § 30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

Section is based on R.S. § 5198, less last sentence as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, which is classified to section 94 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 86a. Omitted

CODIFICATION

Section, Pub. L. 96-221, title V, § 511, Mar. 31, 1980, 94 Stat. 164; Pub. L. 96-399, title III, § 324(b), (d), Oct. 8, 1980, 94 Stat. 1648, which authorized interest on business or agricultural loans of \$1,000 or more at a rate of not more than 5 per centum in excess of the discount rate, was omitted pursuant to section 512 of Pub. L. 96-221 which made these provisions applicable only with respect to such loans made in any State during the period beginning on April 1, 1980, and ending on the earlier of (1) April 1, 1983, or (2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly that such State does not want these provisions to apply with respect to loans made in such State.

A prior section 86a, Pub. L. 96-161, title II, § 205, Dec. 28, 1979, 93 Stat. 1237, similar to this section as enacted by Pub. L. 96-221, was repealed by section 529 of Pub. L. 96-221, effective at the close of Mar. 31, 1980, except that its provisions would continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when that section was in effect in such State. For the effective date provisions relating to the prior section 86a, see section 207 of Pub. L. 96-161.

Another prior section 86a, Pub. L. 96-104, title I, § 105, Nov. 5, 1979, 93 Stat. 791, identical to this section as enacted by Pub. L. 96-161, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979, except that its provisions would continue to apply to loans made in any State on or after Nov. 5, 1979, but prior to such repeal.

Section 301 of Pub. L. 96-104, which limited the applicability of Pub. L. 96-104 to those States having a constitutional provision that all contracts for a greater rate of interest than 10 per centum per annum are void as to both principal and interest, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979.

§§ 87 to 89. Repealed. Pub. L. 103-325, title VI, § 602(e)(2)–(4), Sept. 23, 1994, 108 Stat. 2291

Section 87, R.S. § 5203, related to restriction on use by bank of its circulating notes.

Section 88, R.S. § 5206, related to restriction on use by bank of notes of other banks.

Section 89, R.S. § 5196, related to duty of bank to receive circulating notes of other banks in payment of debts.

§ 90. Depositaries of public moneys and financial agents of Government

All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That the Secretary shall, on or before the 1st of January of each year, make a public statement of the securities required during that year for such deposits. And every association so designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, or for loans or stocks: *Provided*, That the Secretary of the Treasury shall distribute the deposits herein provided for, as far as practicable, equitably between the different States and sections.

Any national banking association may, upon the deposit with it of any funds by any State or political subdivision thereof or any agency or other governmental instrumentality of one or more States or political subdivisions thereof, including any officer, employee, or agent thereof in his official capacity, give security for the safekeeping and prompt payment of the funds so deposited to the same extent and of the same kind as is authorized by the law of the State in which such association is located in the case of other banking institutions in the State.

Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe, or any officer, employee, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section.

(R.S. § 5153; Mar. 3, 1901, ch. 871, 31 Stat. 1448; Mar. 4, 1907, ch. 2913, § 3, 34 Stat. 1290; Dec. 23, 1913, ch. 6, § 27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; June 25, 1930, ch. 604, 46 Stat. 809; Aug. 18, 1950, ch. 754, 64 Stat. 463; Dec. 21, 1979, Pub. L. 96-153, title III, § 323(f), 93 Stat. 1120.)

CODIFICATION

R.S. § 5153 derived from act June 3, 1864, ch. 106, § 45, 13 Stat. 113, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1979—Pub. L. 96-153 added third par.

1950—Act Aug. 18, 1950, permitted national banks to accept and give security for deposits of funds made by agencies or governmental instrumentalities or States or political subdivisions thereof and by their officers, employees or agents.

1930—Act June 25, 1930, added second par.

§ 91. Transfers by bank and other acts in contemplation of insolvency

All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by chapter 4 of title 62 of the Revised Statutes, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void; and no attachment, injunction, or execution, shall be issued against such association or its property before final judgment in any suit, action, or proceeding, in any State, county, or municipal court.

(R.S. § 5242.)

REFERENCES IN TEXT

Chapter 4 of title 62 of the Revised Statutes, referred to in text, was in the original “this chapter”, meaning chapter 4 of title 62 of the Revised Statutes, consisting of R.S. §§ 5220 to 5244, which are classified to sections 43, 91, 93, 93a, 131 to 138, 181 to 186, 192 to 196, and 481 to 485 of this title. See, also, section 709 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5220 to 5244 to the Code, see Tables.

CODIFICATION

R.S. § 5242 derived from act June 3, 1864, ch. 106, § 52, 13 Stat. 115, which was the National Bank Act, and act Mar. 3, 1873, ch. 269, § 2, 17 Stat. 603. See section 38 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Execution, see rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 92. Acting as insurance agent or broker

In addition to the powers now vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: *Provided, however*, That no such bank shall in any case assume or

guarantee the payment of any premium on insurance policies issued through its agency by its principal: *And provided further*, That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 753; amended Oct. 15, 1982, Pub. L. 97-320, title IV, § 403(b), 96 Stat. 1511.)

CODIFICATION

Section is based on the eleventh par. of section 13 of act Dec. 23, 1913, as amended. The eleventh par. constituted the ninth par. of section 13 in 1916 (39 Stat. 752, 753), became the tenth par. in 1923 (42 Stat. 1478), and became the eleventh par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

For decision by U.S. Supreme Court that, despite faulty placement of quotation marks, act Sept. 7, 1916, placed within section 13 of act Dec. 23, 1913, each of the ten pars. located between the phrases that introduced the amendments to sections 13 and 14 of said act, that only the seventh par. (rather than seventh to tenth pars.) comprised the amended R.S. § 5202, and that section 20 of act Apr. 5, 1918 (40 Stat. 512) (which amended R.S. § 5202 comprised of a single par.), did not amend section 13 of said act so as to repeal the eighth to tenth pars., see *United States National Bank of Oregon v. Independent Insurance Agents of America, Inc., et al.*, 508 U.S. —, 113 S.Ct. 2173, 124 L.Ed. 2d 402 (1993). As the result of subsequent amendments, such seventh to tenth pars. of section 13 now constitute the ninth to twelfth pars. The ninth par. amended former section 82 of this title, and the tenth to twelfth pars. are classified to sections 361, 92, and 373, respectively, of this title.

AMENDMENTS

1982—Pub. L. 97-320 struck out “; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission” after “may act as agent” and “guarantee either the principal or interest of any such loans or” after “shall in any case”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-320 effective upon the expiration of 180 days after Oct. 15, 1982, see section 403(c) of Pub. L. 97-320, set out as a note under section 371 of this title.

MORATORIUM

Pub. L. 100-86, title II, § 201(a), (b)(5), Aug. 10, 1987, 101 Stat. 581, 583, provided that, during period beginning Mar. 6, 1987, and ending Mar. 1, 1988, national banks and Federal branches or agencies of foreign banks could not expand their insurance agency activities pursuant to this section into places where they were not conducting such activities as of Mar. 5, 1987.

§ 92a. Trust powers

(a) Authority of Comptroller of the Currency

The Comptroller of the Currency shall be authorized and empowered to grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the

laws of the State in which the national bank is located.

(b) Grant and exercise of powers deemed not in contravention of State or local law

Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this section.

(c) Segregation of fiduciary and general assets; separate books and records; access of State banking authorities to reports of examinations, books, records, and assets

National banks exercising any or all of the powers enumerating¹ in this section shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank.

(d) Prohibited operations; separate investment account; collateral for certain funds used in conduct of business

No national bank shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Comptroller of the Currency.

(e) Lien and claim upon bank failure

In the event of the failure of such bank the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the bank.

(f) Deposits of securities for protection of private or court trusts; execution of and exemption from bond

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, national banks so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. National banks in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. National banks shall have power to execute such bond when so required by the laws of the State.

(g) Officials' oath or affidavit

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such national bank may take the necessary oath or execute the necessary affidavit.

(h) Loans of trust funds to officers and employees prohibited; penalties

It shall be unlawful for any national banking association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

(i) Considerations determinative of grant or denial of applications; minimum capital and surplus for issuance of permit

In passing upon applications for permission to exercise the powers enumerated in this section, the Comptroller of the Currency may take into consideration the amount of capital and surplus of the applying bank, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to him proper, and may grant or refuse the application accordingly: *Provided*, That no permit shall be issued to any national banking association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

(j) Surrender of authorization; board resolution; Comptroller certification; activities affected; regulations

Any national banking association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Comptroller of the Currency a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Comptroller of the Currency, after satisfying himself that such bank has been relieved in accordance with State law of all duties as trustee, executory,² administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics or other fiduciary, under court, private, or other appointments previously accepted under authority of this section, may, in his discretion, issue to such bank a certificate certifying that such bank is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Comptroller of the Currency, such bank (1) shall no longer be subject to the provisions of

¹ So in original. Probably should be "enumerated".

² So in original. Probably should be "executor,".

this section or the regulations of the Comptroller of the Currency made pursuant thereto, (2) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (3) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section. The Comptroller of the Currency is authorized and empowered to promulgate such regulations as he may deem necessary to enforce compliance with the provisions of this section and the proper exercise of the powers granted therein.

(k) Revocation; procedures applicable

(1) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(2) Such hearing shall be conducted in accordance with the provisions of section 1818(h) of this title, and subject to judicial review as provided in such section, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served.

(3) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(4) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.

(Pub. L. 87-722, §1, Sept. 28, 1962, 76 Stat. 668; Mar. 31, 1980, Pub. L. 96-221, title VII, §704, 94 Stat. 187.)

AMENDMENTS

1980—Subsec. (k). Pub. L. 96-221 added subsec. (k).

SAVINGS PROVISION

Section 2 of Pub. L. 87-722 provided that: "Nothing contained in this Act [enacting this section, amending sections 581 and 584(a)(2) of Title 26, and repealing section 248(k) of this title] shall be deemed to affect or curtail the right of any national bank to act in fiduciary capacities under a permit granted before the date of enactment of this Act [Sept. 28, 1962] by the Board of Governors of the Federal Reserve System, nor to affect the validity of any transactions entered into at any time by any national bank pursuant to such permit. On and after the date of enactment of this Act the exercise of fiduciary powers by national banks shall be subject to the provisions of this Act and the requirements of regulations issued by the Comptroller of the Currency pursuant to the authority granted by this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 93 of this title; title 15 sections 78c, 80a-2, 80b-2.

§ 93. Violation of provisions of chapter

(a) Forfeiture of franchise; personal liability of directors

If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of title 62 of the Revised Statutes, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper district or Territorial court of the United States in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

(b) Civil money penalty

(1) First tier

Any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who, violates any provision of title 62 of the Revised Statutes or any of the provisions of section 92a of this title, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) Second tier

Notwithstanding paragraph (1), any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who, commits any violation described in paragraph (1) which—¹

¹ So in original. The words "commits any violation described in paragraph (1) which" probably should not appear.

- (A)(i) commits any violation described in any² paragraph (1);
- (ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such association; or
- (iii) breaches any fiduciary duty;
- (B) which violation, practice, or breach—
 - (i) is part of a pattern of misconduct;
 - (ii) causes or is likely to cause more than a minimal loss to such association; or
 - (iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) Third tier

Notwithstanding paragraphs (1) and (2), any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who—

- (A) knowingly—
 - (i) commits any violation described in paragraph (1);
 - (ii) engages in any unsafe or unsound practice in conducting the affairs of such association; or
 - (iii) breaches any fiduciary duty; and
- (B) knowingly or recklessly causes a substantial loss to such association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) Maximum amounts of penalties for any violation described in paragraph (3)

The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

- (A) in the case of any person other than a national banking association, an amount to not³ exceed \$1,000,000; and
- (B) in the case of a national banking association, an amount not to exceed the lesser of—
 - (i) \$1,000,000; or
 - (ii) 1 percent of the total assets of such association.

(5) Assessment; etc.

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) Hearing

The association or other person against whom any penalty is assessed under this sub-

section shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this subsection.

(7) Disbursement

All penalties collected under authority of this subsection shall be deposited into the Treasury.

(8) “Violate” defined

For purposes of this section, the term “violate” includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(12)⁴ Regulations

The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.

(c) Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such an association (including a separation caused by the closing of such an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such association (whether such date occurs before, on, or after August 9, 1989).

(d) Forfeiture of franchise for money laundering or cash transaction reporting offenses

(1) In general

(A) Conviction of title 18 offenses

(i) Duty to notify

If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

(ii) Notice of termination; pretermination hearing

After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

(B) Conviction of title 31 offenses

If a national bank, a Federal branch, or a Federal agency is convicted of any criminal

² So in original. The word “any” probably should not appear.

³ So in original. Probably should be “not to”.

⁴ So in original. No pars. (9) to (11) have been enacted.

offense under section 5322 or 5324 of title 31, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

(C) Judicial review

Section 1818(h) of this title shall apply to any proceeding under this subsection.

(2) Factors to be considered

In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

(3) Successor liability

This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

(4) "Senior executive officer" defined

The term "senior executive officer" has the same meaning as in regulations prescribed under section 1831i(f) of this title.

(d)⁵ Authority

The Comptroller of the Currency may act in the Comptroller's own name and through the

Comptroller's own attorneys in enforcing any provision of title 62 of the Revised Statutes, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.

(R.S. §5239; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Nov. 10, 1978, Pub. L. 95-630, title I, §103, 92 Stat. 3643; Oct. 15, 1982, Pub. L. 97-320, title IV, §424(d)(3), (f), (g), 96 Stat. 1523; Jan. 12, 1983, Pub. L. 97-457, §24, 96 Stat. 2510; Aug. 9, 1989, Pub. L. 101-73, title IX, §§905(e), 907(e), 103 Stat. 460, 469; Oct. 28, 1992, Pub. L. 102-550, title XV, §1502(a), 106 Stat. 4045; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, §330017(b)(2), 108 Stat. 2149; Sept. 23, 1994, Pub. L. 103-325, title III, §331(b)(3), title IV, §§411(c)(2)(C), 413(b)(2), 108 Stat. 2232, 2253, 2254.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in subsecs. (a), (b)(1), and (d), was in the original "this Title" meaning title 62 of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 21, 22 to 24, 25a, 26 to 29, 35 to 37, 39, 43, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5239 derived from act June 3, 1864, ch. 106, §53, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-322, §330017(b)(2), and Pub. L. 103-325, §413(b)(2), amended section identically, redesignating subsec. (c), relating to forfeiture of franchise for money laundering, as (d).

Subsec. (d). Pub. L. 103-322, §330017(b)(2), and Pub. L. 103-325, §413(b)(2), amended section identically, redesignating subsec. (c), relating to forfeiture of franchise for money laundering, as (d).

Pub. L. 103-325, §331(b)(3), added subsec. (d) relating to authority.

Subsec. (d)(1)(B). Pub. L. 103-325, §411(c)(2)(C), substituted "section 5322 or 5324 of title 31" for "section 5322 of title 31".

1992—Subsec. (c). Pub. L. 102-550 added subsec. (c) relating to forfeiture of franchise for money laundering.

1989—Subsec. (b). Pub. L. 101-73, §907(e), amended subsec. (b) generally, revising and restating as pars. (1) to (8) and (12) provisions of former pars. (1) to (8).

Subsec. (c). Pub. L. 101-73, §905(e), added subsec. (c) relating to notice after separation from service.

1982—Subsec. (b)(1). Pub. L. 97-320, as amended by Pub. L. 97-457, inserted "or any of the provisions of section 92a of this title", and substituted "may be assessed" for "shall be assessed" and "title" for "chapter".

1978—Pub. L. 95-630 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 907(l) of Pub. L. 101-73 provided that: "The amendments made by this section [amending this section and sections 481, 504, 505, 1467a, 1786, 1817, 1818, 1828, 1847, and 1972 of this title] shall apply with respect to conduct engaged in by any person after the date of the enactment of this Act [Aug. 9, 1989], except that the increased maximum civil penalties of \$5,000 and \$25,000

⁵ So in original. Probably should be "(e)".

per violation or per day may apply to such conduct engaged in before such date if such conduct—

“(1) is not already subject to a notice (initiating an administrative proceeding) issued by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act [12 U.S.C. 1813(q)]) or the National Credit Union Administration Board; and

“(2) occurred after the completion of the last report of examination of the institution involved by the appropriate Federal banking agency (as so defined) occurring before the date of the enactment of this Act.”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 109 of title I of Pub. L. 95-630 provided that: “Any amendment made by this title which provides for the imposition of civil penalties [enacting sections 504 and 505 of this title and amending this section and sections 1464, 1730, 1730a, 1786, 1818, 1828, and 1847 of this title] shall apply only to violations occurring or continuing after the date of its enactment [Nov. 10, 1978].”

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Appointment of receiver, see section 191 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1831k of this title; title 31 sections 3121, 9110.

§ 93a. Authority to prescribe rules and regulations

Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this section does not apply to section 36 of this title or to securities activities of National Banks under the Act commonly known as the “Glass-Steagall Act”.

(R.S. § 5239A, as added Pub. L. 96-221, title VII, § 708, Mar. 31, 1980, 94 Stat. 188.)

REFERENCES IN TEXT

The Glass-Steagall Act, referred to in text, probably refers to act June 16, 1933, ch. 89, 48 Stat. 162, as amended, also known as the Banking Act of 1933 or the Glass-Steagall Act, 1933, rather than to act Feb. 27, 1932, ch. 58, 47 Stat. 56, known as the Glass-Steagall Act, 1932. Section 16 of the 1933 act, which amended section 24 (Seventh) of this title, related in part to securities activities of national banks. For complete classification of these Acts to the Code, see Tables.

§ 94. Venue of suits

Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over

such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.

(R.S. § 5198; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Oct. 15, 1982, Pub. L. 97-320, title IV, § 406, 96 Stat. 1512; Jan. 12, 1983, Pub. L. 97-457, § 20(a), 96 Stat. 2509.)

CODIFICATION

The last sentence of R.S. § 5198, as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, appears to have been derived from act June 3, 1864, ch. 106, § 57, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

Section is comprised of last sentence of R.S. § 5198 as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320. The remaining sentences of R.S. § 5198 are classified to section 86 of this title.

Act Mar. 3, 1911, conferred powers and duties of former circuit courts on district courts.

AMENDMENTS

1982—Pub. L. 97-320, as amended by Pub. L. 97-457, amended section generally. Prior to amendment section read as follows: “Actions and proceedings against any association under this chapter may be had in any district or Territorial court of the United States held within the district in which such association may be established, or in any State, county, or municipal court in the county or city in which said association is located having jurisdiction in similar cases.”

EFFECTIVE DATE OF 1983 AMENDMENT

Section 20(b) of Pub. L. 97-457 provided that: “The amendment made by subsection (a) [amending this section] shall be deemed to have taken effect upon the enactment of Public Law 97-320 [Oct. 15, 1982].”

CROSS REFERENCES

Jurisdiction and venue in suits against national banks, see sections 1348 and 1394 of Title 28, Judiciary and Judicial Procedure.

§ 94a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act July 12, 1882, ch. 290, § 4, 22 Stat. 163, related to jurisdiction and venue. See sections 1348 and 1394 of Title 28, Judiciary and Judicial Procedure.

§ 95. Emergency limitations and restrictions on business of members of Federal reserve system; designation of legal holiday for national banking associations; exceptions; “State” defined

(a) In order to provide for the safer and more effective operation of the national Banking System and the Federal Reserve System, to preserve for the people the full benefits of the currency provided for by the Congress through the national banking system and the Federal reserve system, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal reserve system shall transact any banking business except to such extent and subject to such regulations, limitations and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or

any director, officer or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

(b)(1) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise.

(2) For the purpose of this subsection, the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Mar. 9, 1933, ch. 1, title I, § 4, 48 Stat. 2; Mar. 31, 1980, Pub. L. 96-221, title VII, § 705, 94 Stat. 187; Oct. 15, 1982, Pub. L. 97-320, title IV, § 407, 96 Stat. 1513; Jan. 12, 1983, Pub. L. 97-457, § 21, 96 Stat. 2509.)

AMENDMENTS

1983—Subsec. (b)(1). Pub. L. 97-457 inserted "a State or" before "a State official".

1982—Subsec. (b)(1). Pub. L. 97-320 substituted "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise" for "In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open".

1980—Pub. L. 96-221 designated existing provisions as subsec. (a) and added subsec. (b).

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

BANK HOLIDAY OF 1933

Proclamations Nos. 2039, 2040, and 2070, dated Mar. 6, 1933, Mar. 9, 1933, and Dec. 30, 1933, respectively, related to the temporary suspension of banking transactions beginning Mar. 6, 1933, by all member banks of the Federal Reserve System.

Pursuant to Ex. Ord. No. 6073, dated March 10, 1933, formerly set out as a note under this section, the Secretary of the Treasury by order of March 11, 1933, authorized all Federal reserve banks and nonmember banks and other banking institutions to resume their normal and usual banking functions on March 13, 1933, subject to certain restrictions. See 31 C.F.R. 121.20-121.22. The fifth and sixth paragraphs of Ex. Ord. No. 6073, relating to the removal of gold coin, gold bullion, or gold certificates from the United States by corporations, etc., including banking institutions and authorization of banking institutions to pay out gold coin, gold bullion or gold certificates, were revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, set out as a note under section 95a of this title.

PROC. NO. 2725. EXEMPTION OF MEMBER BANKS OF FEDERAL RESERVE SYSTEM

Proc. No. 2725, Apr. 7, 1947, 12 F.R. 2343, 61 Stat. 1062, provided:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by section 5(b) of the Trading with the Enemy Act of October 6, 1917, 40 Stat. 415, as amended [section 5(b) of Appendix to Title 50], and section 4 of the act of March 9, 1933, 48 Stat. 2 [this section] and by virtue of all other authority vested in me, do hereby, in the interest of the internal management of the Government, proclaim, order, direct, and declare that the said proclamations of March 6 and March 9, 1933, and Executive order of March 10, 1933, as amended, are further amended to exclude from their scope banking institutions which are members of the Federal Reserve System: *Provided, however*, That no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, or allow the withdrawal of any currency for hoarding.

This proclamation shall become effective as of March 15, 1947.

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213 of this title.

§ 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties

(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this section or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this section, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof; *Provided, however*, That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the

importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 2404 of title 50, Appendix, or under section 2405 of title 50, Appendix to the extent that such controls promote the non-proliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18.

(Oct. 6, 1917, ch. 106, §5(b), 40 Stat. 415; Sept. 24, 1918, ch. 176, §5, 40 Stat. 966; Mar. 9, 1933, ch. 1, title I, §2, 48 Stat. 1; May 7, 1940, ch. 185, §1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, §301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 69 Stat. 1352; Dec. 28, 1977, Pub. L. 95-223, title I, §§101(a), 102, 103(b), 91 Stat. 1625, 1626; Aug. 23, 1988, Pub. L. 100-418, title II, §2502(a)(1), 102 Stat. 1371; Apr. 30, 1994, Pub. L. 103-236, title V, §525(b)(1), 108 Stat. 474.)

CODIFICATION

Section 5(b) of act Oct. 6, 1917, is part of the Trading with the Enemy Act and is also classified to section 5(b) of the Appendix to Title 50, War and National Defense.

Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this section in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" following "to the jurisdiction thereof:" in subsec. (3) were omitted on authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

AMENDMENTS

1994—Par. (4). Pub. L. 103-236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The authority granted to the President in this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 2404 of title 50, Appendix, or with respect to which no acts are prohibited by chapter 37 of title 18."

1988—Par. (4). Pub. L. 100-418 added par. (4).

1977—Par. (1). Pub. L. 95-223, §§101(a), 102, substituted "During the time of war, the President may, through any agency that he may designate, and under such rules and regulations" for "During the time of war or during any other period of national emergency declared by the President, the President may, through any agency, that he may designate, or otherwise, and under such rules and regulations" in the provisions preceding subpar. (A), and, in the provisions following subpar. (B), struck out "; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of the subdivision" after "control of such person".

Par. (3). Pub. L. 95-223, §103(b), struck out provisions that whoever willfully violated any of the provisions of

this subdivision or of any license, order, rule, or regulation issued thereunder, could be fined not more than \$10,000, or, if a natural person, could be imprisoned for not more than ten years, or both; and that any officer, director, or agent of any corporation who knowingly participated in that violation could be punished by a like fine, imprisonment, or both.

1941—Act Dec. 18, 1941, broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Act Mar. 9, 1933, amended section generally by, among other things, extending the President's power to any time of war or national emergency, by permitting regulations to be issued by any agency designated by the President, by providing for the furnishing under oath of complete information relative to transactions under this section and by placing sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

1918—Act Sept. 24, 1918, inserted provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness.

DELEGATION OF POWERS

Delegation of President's powers under this section to Secretary of the Treasury and Alien Property Custodian; and transfer of Alien Property Custodian's powers to Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out as notes under section 6 of the Appendix to Title 50, War and National Defense.

All powers conferred upon President by this section delegated to Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

ADMINISTRATION OF EXPORT ADMINISTRATION ACT

For provisions relating to the administration of the Export Administration Act, see Executive Orders set out as notes under section 2403 of Title 50, Appendix, War and National Defense.

LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES

Section 525(b)(2) of Pub. L. 103-236 provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Apr. 30, 1994], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited."

Section 2502(a)(2) of Pub. L. 100-418 provided that: "The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Aug. 23, 1988], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited."

EXTENSION AND TERMINATION OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

Section 101(b), (c) of Pub. L. 95-223 provided that: "(b) Notwithstanding the amendment made by subsection (a) [amending par. (1) of this section], the au-

thorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act [section 1601(a) of Title 50, War and National Defense]) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act [Sept 14, 1976]. The President may extend the exercise of such authorities for one-year periods upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) [section 1601(a) of Title 50, War and National Defense] and of title II [section 1621 et seq. of Title 50] of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions."

REMOVAL OF LIMITATIONS AND RESTRAINTS IN FINANCING EXPORTS

Pub. L. 92-126, §2, Aug. 17, 1971, 85 Stat. 346, provided that: "In connection with section 2 of Executive Order Number 11387, dated January 1, 1968 [formerly set out below] and any rule, regulation, or guideline established by the Board of Governors of the Federal Reserve System in connection with a voluntary foreign credit restraint program, there shall be no limitation or restraint, or suggestion that there be a limitation or restraint, on the part of any bank or financial institution in connection with the extension of credit for the purpose of financing exports of the United States."

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of the Appendix to Title 50, War and National Defense.

DIPLOMATIC PROPERTY OF GERMANY AND JAPAN

Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, set out in notes to section 6 of Title 50, Appendix, War and National Defense, supersedes conflicting provisions of Ex. Ord. No. 8389, set out below.

EXECUTIVE ORDER NO. 6260

Ex. Ord. No. 6260, Aug. 28, 1933, as amended by Ex. Ord. No. 6359, Oct. 25, 1933; Ex. Ord. No. 6556, Jan. 12, 1934; Ex. Ord. No. 6560, Jan. 15, 1934; Ex. Ord. No. 10896, Nov. 29, 1960, 25 F.R. 12281; Ex. Ord. No. 10905, Jan. 14, 1961, 26 F.R. 321; Ex. Ord. No. 11037, July 20, 1962, 27 F.R. 6967, formerly set out as a note under this section, which related to the hoarding, export, and earmarking of gold coin, bullion, or currency, and transactions in foreign exchange, was revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, set out below.

EXECUTIVE ORDER NO. 6560

Ex. Ord. No. 6560, Jan. 15, 1934, as amended by Ex. Ord. No. 8389, April 10, 1940, 6 p.m. E. S. T., 5 F.R. 1400; Ex. Ord. No. 8405, May 10, 1940, 7:55 a.m. E. S. T., 5 F.R. 1677; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667, formerly set out as a note under this section, which declared the existence of a national emergency and prescribed regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions, and export of currency or silver coin by persons within the United States or subject to its jurisdiction, was based on authority of section 95a of this title (act Oct. 6, 1917, ch. 106, §5(b), 40 Stat. 415, comprising part of the Trading With the Enemy Act) which was

amended in 1977 to remove the powers of the President to regulate transactions during a period of national emergency other than a war.

EX. ORD. NO. 8389. REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL FOREIGN-OWNED PROPERTY

Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by Ex. Ord. No. 8405, May 10, 1940, 5 F.R. 1677; Ex. Ord. No. 8446, June 17, 1940, 5 F.R. 2279; Ex. Ord. No. 8484, July 15, 1940, 5 F.R. 2586; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667; Ex. Ord. No. 8565, Oct. 10, 1940, 5 F.R. 4062; Ex. Ord. No. 8701, Mar. 4, 1941, 6 F.R. 1285; Ex. Ord. No. 8711, Mar. 13, 1941, 6 F.R. 1443; Ex. Ord. No. 8721, Mar. 24, 1941, 6 F.R. 1622; Ex. Ord. No. 8746, Apr. 28, 1941, 6 F.R. 2187; Ex. Ord. No. 8785, June 14, 1941, 6 F.R. 2897; Ex. Ord. No. 8832, July 26, 1941, 6 F.R. 3715; Ex. Ord. No. 8963, Dec. 9, 1941, 6 F.R. 6348; Ex. Ord. No. 8998, Dec. 26, 1941, 6 F.R. 6787, provided:

SECTION 1. CERTAIN FOREIGN BANKING TRANSACTIONS PROHIBITED

All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SECTION 2. DEALINGS IN FOREIGN SECURITIES; REGULATIONS

A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or

instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. FOREIGN COUNTRIES AFFECTED; EFFECTIVE DATE OF PROHIBITIONS

The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940—
Norway and
Denmark;
- (b) May 10, 1940—
The Netherlands,
Belgium and
Luxembourg;
- (c) June 17, 1940—
France (including Monaco);
- (d) July 10, 1940—
Latvia, Estonia and
Lithuania;
- (e) October 9, 1940—
Rumania;
- (f) March 4, 1941—
Bulgaria;
- (g) March 13, 1941—
Hungary;
- (h) March 24, 1941—
Yugoslavia;
- (i) April 28, 1941—
Greece; and
- (j) June 14, 1941—
Albania,
Andorra,
Austria,
Czechoslovakia,
Danzig,
Finland,
Germany,
Italy,
Liechtenstein,
Poland,
Portugal,
San Marino,
Spain,
Sweden,
Switzerland, and
Union of Soviet Socialist Republics;
- (k) June 14, 1941—
China and
Japan;
- (l) June 14, 1941—
Thailand;
- (m) June 14, 1941—
Hong Kong.

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

SECTION 4. RECORDS OF FOREIGN BANKING AND SECURITY TRANSACTIONS; INVESTIGATIONS

A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415) [this section], as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production

of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SECTION 5. DEFINITIONS

A. As used in the first paragraph of section 1 of this Order "transactions (which) involve property in which any foreign country designated in this Order, or any national thereof, has * * * any interest of any nature whatsoever, direct or indirect," shall include but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska: *Provided, however,* That for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined.

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting

to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers, and each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this Order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SECTION 6. CONSTRUCTION WITH EX. ORD. NO. 6560; SAVING CLAUSE

Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SECTION 7. REGULATIONS BY SECRETARY OF THE TREASURY

Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and

to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SECTION 8. OFFENSES AND PENALTIES UNDER ACT OCT. 6, 1917

Section 5(b) of the Act of October 6, 1917, as amended, provides in part:

“* * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.”

SECTION 9. AMENDMENTS OF ORDER AND REGULATIONS PRESCRIBED THEREUNDER

This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

[Ex. Ord. No. 8389 and the regulations and general rulings issued thereunder by the Secretary of the Treasury were approved and confirmed by Res. May 7, 1940, ch. 185, § 2, 54 Stat. 179.]

[Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, 50 U.S.C. App., § 6 note, relating to diplomatic property of Germany and Japan in the United States, supersedes conflicting provisions of Ex. Ord. No. 8389, set out above.]

EXECUTIVE ORDERS NOS. 8446, 8484, 8565, 8701, 8711, 8721, 8746

The application of Ex. Ord. No. 6560, §§ 9 to 14, to French property by Ex. Ord. No. 8446, 5 F.R. 2279; to Latvian, Estonian and Lithuanian property by Ex. Ord. No. 8484, 5 F.R. 2586; to Rumanian property by Ex. Ord. No. 8565, 5 F.R. 4062; to Bulgarian property by Ex. Ord. No. 8701, 6 F.R. 1285; to Hungarian property by Ex. Ord. No. 8711, 6 F.R. 1443; to Yugoslav property by Ex. Ord. No. 8721, 6 F.R. 1622; to Greek property by Ex. Ord. No. 8746, 6 F.R. 2187, was incorporated in the provisions of Ex. Ord. No. 8389 as amended by Ex. Ord. No. 8785, set out above.

EX. ORD. NO. 9747. FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY DEPARTMENT CONTINUED IN PHILIPPINES

Ex. Ord. No. 9747, July 3, 1946, 11 F.R. 7518, provided: The terms and provisions of Executive Order 9095 of March 11, 1942, as amended [formerly set out as a note under section 6 of the Appendix to Title 50, War and National Defense], and Executive Order No. 8389 of April 10, 1940, as amended [set out above], shall continue in force in the Philippines after July 4, 1946, and all powers and authority delegated by the said Executive Orders to the Alien Property Custodian and to the Secretary of the Treasury, respectively, shall after July 4, 1946, continue to be exercised in the Philippines by the said officers, respectively, as therein provided.

EXECUTIVE ORDER NO. 10348

Ex. Ord. No. 10348, Apr. 26, 1952, 17 F.R. 3769, which provided that Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended, set out above, and all delegations, designations, regulations, rulings, instructions, and licenses issued under such order, should be continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, set out as a note preceding section 1 of the Appendix to Title 50, War and National Defense, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out as a note under section 6 of the Appendix to Title 50.

EXECUTIVE ORDER NO. 11387

Ex. Ord. No. 11387, Jan. 1, 1968, 33 F.R. 47, which prohibited transfers of capital to or within a foreign coun-

try or to any national thereof outside the United States by a person subject to the jurisdiction of the United States who owns a 10 percent interest in a foreign business venture, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 11825. REVOCATION OF EXECUTIVE ORDERS PERTAINING TO REGULATION OF ACQUISITION OF, HOLDING OF, OR OTHER TRANSACTIONS IN GOLD

Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, provided: By virtue of the authority vested in me by section 1 of the Act of August 8, 1950, 64 Stat. 419, and section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a) [this section], and as President of the United States, and in view of the provisions of section 3 of Public Law 93-110, 87 Stat. 352, as amended by section 2 of Public Law 93-373, 88 Stat. 445, [set out as notes under section 442 of former Title 31, Money and Finance], it is ordered as follows:

SECTION 1. Executive Order No. 6260 of August 28, 1933, as amended by Executive Order No. 6359 of October 25, 1933, Executive Order No. 6556 of January 12, 1934, Executive Order No. 6560 of January 15, 1934, Executive Order No. 10896 of November 29, 1960, Executive Order No. 10905 of January 14, 1961, and Executive Order No. 11037 of July 20, 1962; the fifth and sixth paragraphs of Executive Order No. 6073, March 10, 1933 [formerly set out as a note under section 95 of this title]; sections 3 and 4 of Executive Order No. 6359 of October 25, 1933 [formerly set out as a note under section 248 of this title]; and paragraph 2(d) of Executive Order No. 10289 of September 17, 1951 [set out as a note under section 301 of Title 3, The President], are hereby revoked.

SECTION 2. The revocation, in whole or in part, of such prior Executive orders relating to regulation on the acquisition of, holding of, or other transactions in gold shall not affect any act completed, or any right accruing or accrued, or any suit or proceeding finished or started in any civil or criminal cause prior to the revocation, but all such liabilities, penalties, and forfeitures under the Executive orders shall continue and may be enforced in the same manner as if the revocation had not been made.

This order shall become effective on December 31, 1974.

GERALD R. FORD.

CROSS REFERENCES

Jurisdiction of courts of Philippine Islands terminated, see section 1382 of Title 22, Foreign Relations and Intercourse.

Provisions governing checks and warrants withheld pursuant to Ex. Ord. No. 8389, adding sections 9 to 12 to Ex. Ord. No. 6560, which was formerly set out under this section, see section 3329 of Title 31, Money and Finance.

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 95b, 212, 3409, 3413 of this title; title 22 sections 6004, 6005; title 31 section 5315.

§ 95b. Ratification of acts of President and Secretary of Treasury under section 95a

The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by section 95a of this title, are approved and confirmed.

(Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1.)

CODIFICATION

This section is also set out as a note under section 5 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 212 of this title.

SUBCHAPTER V—OBTAINING AND ISSUING CIRCULATING NOTES

§§ 101 to 110. Repealed. Pub. L. 103-325, title VI, § 602(e)(5)–(11), (f)(2)–(4)(A), (g)(9), Sept. 23, 1994, 108 Stat. 2292, 2294

Section 101, acts Mar. 14, 1900, ch. 41, § 12, 31 Stat. 49; Oct. 5, 1917, ch. 74, § 2, 40 Stat. 342, provided for delivery of circulating notes in blank to national banking associations depositing bonds with Treasurer of United States.

Section 101a, R.S. § 5159; Dec. 23, 1913, ch. 6, § 17, 38 Stat. 268; June 21, 1917, ch. 32, § 9, 40 Stat. 239, related to deposit of bonds to secure circulating notes.

Section 102, R.S. § 5158, construed term “United States bonds” as including registered bonds.

Section 103, act Oct. 5, 1917, ch. 74, § 3, 40 Stat. 342, related to denominations of notes and limitation on amount of \$1 and \$2 notes.

Section 104, R.S. § 5172; May 30, 1908, ch. 229, § 11, 35 Stat. 551; Dec. 23, 1913, ch. 6, § 27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Mar. 3, 1919, ch. 101, § 4, 40 Stat. 1315, related to printing and form of circulating notes.

Section 105, act June 20, 1874, ch. 343, § 5, 18 Stat. 124, provided that Comptroller of Currency was to print charter numbers of association on national bank notes.

Section 106, act Mar. 3, 1875, ch. 130, § 1, 18 Stat. 372, provided for printing national-bank notes on distinctive paper adopted by Secretary of the Treasury.

Section 107, R.S. § 5173, related to custody of plates and dies procured for printing notes and payment of expenses.

Section 108, R.S. § 5174; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252, related to examination of plates, dies, and other material from which national-bank circulation was printed, and destruction of obsolete material.

Section 109, R.S. § 5182; Jan. 13, 1920, ch. 38, 41 Stat. 387, provided that banks could issue and circulate notes the same as money if signed by officers in manner of obligatory promissory notes payable on demand at place of business, and specified demands for which such notes were to be received.

Section 110, R.S. § 5183; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, prohibited banks from issuing unauthorized notes.

SUBCHAPTER VI—REDEMPTION AND REPLACEMENT OF CIRCULATING NOTES

§ 121. Repealed. Pub. L. 103-325, title VI, § 602(f)(4)(B), Sept. 23, 1994, 108 Stat. 2292

Section, acts June 20, 1874, ch. 343, § 3, 18 Stat. 123; Dec. 23, 1913, ch. 6, § 20, 38 Stat. 271; May 29, 1920, ch. 214, § 1, 41 Stat. 654, provided that every national banking association was to establish reserve in Treasury for redemption of notes by Treasurer of United States, forward notes unfit for use to Treasurer for disposition, and reimburse expenses of Treasury.

§ 121a. Redemption of notes unidentifiable as to bank of issue

Whenever any Federal Reserve bank notes or Federal Reserve notes are presented to the Treasurer of the United States for redemption and such notes cannot be identified as to the bank of issue or the bank through which issued, the Treasurer of the United States may redeem

such notes under such rules and regulations as the Secretary of the Treasury may prescribe.

(June 13, 1933, ch. 62, § 1, 48 Stat. 127; May 20, 1966, Pub. L. 89-427, § 4(a), 80 Stat. 161; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(8)(A), 108 Stat. 2294.)

AMENDMENTS

1994—Pub. L. 103-325, § 602(g)(8)(A)(ii), which directed the amendment of this section by striking out “, and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction” after “Treasury may prescribe”, was executed by striking out text which contained the word “Reserves” rather than “Reserve”, to reflect the probable intent of Congress.

Pub. L. 103-325, § 602(g)(8)(A)(i), substituted “Whenever any Federal Reserve bank notes,” for “Whenever any national-bank notes, Federal Reserve bank notes,”.

1966—Pub. L. 89-427 excepted Federal Reserve notes from the category of notes which, upon redemption by the Treasurer of the United States, must be forwarded to the Comptroller of the Currency for cancellation and destruction.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122a of this title.

§ 122. Repealed. Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068

Section, act July 14, 1890, ch. 708, § 6, 26 Stat. 289, related to deposits received by the Treasurer from national banks made to redeem circulating notes of such banks and disposition of those deposits.

§ 122a. Redeemed notes of unidentifiable issue; funds charged against

Federal Reserve bank notes redeemed by the Treasurer of the United States under section 121a of this title shall be charged against the balance of deposits for the retirement of Federal Reserve bank notes under the provisions of sections 122 and 445¹ of this title; and charges for Federal Reserve notes redeemed by the Treasurer of the United States under section 121a of this title shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(June 13, 1933, ch. 62, § 2, 48 Stat. 128; May 20, 1966, Pub. L. 89-427, § 4(b), 80 Stat. 161; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(8)(B), 108 Stat. 2294.)

REFERENCES IN TEXT

Section 122 of this title, referred to in text, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

Section 445 of this title, referred to in text, was repealed by act June 12, 1945, ch. 186, § 3, 59 Stat. 238.

AMENDMENTS

1994—Pub. L. 103-325 struck out “National-bank notes and” before “Federal Reserve bank notes redeemed” and “national-bank notes and” after “deposits for the retirement of”.

¹ See References in Text note below.

1966—Pub. L. 89-427 substituted provisions allowing the Board of Governors of the Federal Reserve System to determine the proper apportioning between the Federal Reserve banks of the charges for the redemption by the Treasurer of the United States of Federal Reserve notes that are unidentifiable as to bank of issue for provisions that set out the exact formula for determining the proper apportioning of charges using a proportion based upon the amount of Federal Reserve notes of each Federal Reserve bank in circulation in the 31st day of December of the year preceding the date of redemption, with the amount apportioned under the formula charged by the Treasurer of the United States against deposit in the gold-redemption fund made by the bank or its Federal Reserve agent.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

§§ 123 to 126. Repealed. Pub. L. 103-325, title VI, § 602(e)(12), (13), (f)(4)(C), (6), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 123, R.S. § 5195; June 20, 1874, ch. 343, § 3, 18 Stat. 123, related to redemption of notes by bank at own counter.

Section 124, R.S. § 5184; June 23, 1874, ch. 455, § 1, 18 Stat. 206, related to destroying and replacing notes unfit for use.

Section 125, act July 28, 1892, ch. 317, 27 Stat. 322, related to redemption of lost or stolen notes.

Section 126, act June 20, 1874, ch. 343, § 8, 18 Stat. 125, related to duty of Treasurer, designated depositories, and national-bank depositories of United States to return notes of failed or liquidated banks to Treasury for redemption.

§ 127. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 633

Section, act Mar. 3, 1875, ch. 130, § 3, 18 Stat. 399, provided for a clerical force for redemption of circulating notes.

SUBCHAPTER VII—PROCEEDINGS ON FAILURE OF BANK TO REDEEM CIRCULATING NOTES

§§ 131 to 138. Repealed. Pub. L. 103-325, title VI, § 602(e)(14)–(21), Sept. 23, 1994, 108 Stat. 2292

Section 131, R.S. § 5226; June 20, 1874, ch. 343, § 3, 18 Stat. 123, related to protest of notes and waiver of demand and notice of protest.

Section 132, R.S. § 5227, related to appointment by Comptroller of the Currency of special agent to examine failure of national banking association to redeem its circulating notes and provided for forfeiture of association's bonds to United States based on findings of agent.

Section 133, R.S. § 5228; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, prohibited banking associations from continuing in business after default.

Section 134, R.S. § 5229, provided that, upon declaration of forfeiture of association's bonds, Comptroller of the Currency was to notify holders of circulating notes to present notes for payment and was authorized to cancel bonds pledged by association.

Section 135, R.S. § 5232, related to disposition of redeemed notes and perpetuation of evidence of payment of such notes.

Section 136, R.S. § 5233, related to cancellation of redeemed notes.

Section 137, R.S. § 5230, provided Comptroller of the Currency with option of selling defaulting association's bonds at auction, rather than cancelling them, and granted United States paramount lien on all association assets in case of deficiencies from such sale.

Section 138, R.S. § 5231, related to private sale of defaulting association's bonds by Comptroller of the Currency.

SUBCHAPTER VIII—RESERVE CITIES; LAWFUL RESERVES

§ 141. Central reserve and reserve cities; designation

The cities of New York and Chicago are designated as central reserve cities, and the following cities are designated as reserve cities:

Boston	Indianapolis
Albany	Chicago
Brooklyn and Bronx	Peoria
Buffalo	Detroit
Philadelphia	Grand Rapids
Pittsburgh	Milwaukee
Baltimore	Minneapolis
Washington	St. Paul
Richmond	Cedar Rapids
Atlanta	Des Moines
Little Rock	Dubuque
Louisville	Sioux City
Memphis	Kansas City, Mo.
Nashville	St. Joseph
Cincinnati	Jacksonville
Cleveland	Birmingham
Columbus	New Orleans
Toledo	Dallas
El Paso	Pueblo
Fort Worth	Muskogee
Galveston	Oklahoma City
Houston	Tulsa
San Antonio	Savannah
Waco	Seattle
St. Louis	Spokane
Lincoln	Portland
Omaha	Los Angeles
Kansas City, Kans.	Oakland
Topeka	San Francisco
Wichita	Ogden
Helena	Salt Lake City
Denver	

The Board of Governors of the Federal Reserve System may at any time reclassify cities so designated as reserve and central reserve cities, may add to the number so classified, or terminate the designation of any cities as such.

(R.S. § 5191; Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CENTRAL RESERVE CITIES

Section 3(b)(1), (2), of Pub. L. 86-114, July 28, 1959, 73 Stat. 263, reclassified New York and Chicago as reserve cities and terminated the classification of central reserve city and the authority of the Board of Governors of the Federal Reserve System to classify or reclassify cities as central reserve cities, effective 3 years after July 28, 1959. See Central Reserve and Reserve Cities note, set out under this section.

CODIFICATION

R.S. § 5191 derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CENTRAL RESERVE AND RESERVE CITIES

Section 3(b) of Pub. L. 86-114, July 28, 1959, 73 Stat. 263, provided that: "Effective three years after the date of the enactment of this Act [July 28, 1959]—

"(1) New York and Chicago are reclassified as reserve cities under the Federal Reserve Act;

"(2) the classification 'central reserve city' under the Federal Reserve Act, and the authority of the Board of Governors of the Federal Reserve System to classify or reclassify cities as 'central reserve cities' under such Act, are terminated;

"(3) section 5192 of the Revised Statutes of the United States (12 U.S.C., sec. 144) is amended by striking out 'central reserve or';

"(4) section 2 of the Act of March 3, 1887 (ch. 378; 24 Stat. 560) is repealed;

"(5) the last paragraph of section 2 of the Federal Reserve act (12 U.S.C., sec. 224) is amended by striking out 'and central reserve cities';

"(6) section 11(e) of the Federal Reserve Act (12 U.S.C., sec. 248e) is amended by striking out 'and central reserve' each place it appears;

"(7) the third paragraph (lettered (a)) of section 19 of the Federal Reserve Act (12 U.S.C., sec. 462) is amended by striking out 'or central reserve';

"(8) the fifth paragraph (lettered (c)) of such section 19 is repealed;

"(9) subparagraph (2) of the sixth paragraph of such section 19 (as added by the first section of this Act) is amended by striking out 'and a member bank in a central reserve city may hold and maintain the reserve balances which are in effect under this section for member banks described in paragraph (a) or (b).';

"(10) the seventh paragraph of such section 19 is amended by striking out clauses (1), (2), (3), and (4) and inserting in lieu thereof the following: '(1) by member banks in reserve cities, (2) by member banks not in reserve cities, or (3) by all member banks'; and

"(11) the seventh paragraph of such section is further amended by striking out 'and central reserve cities'."

CROSS REFERENCES

List of Federal Reserve Banks and Branches, see note under section 222 of this title.

Power of Board of Governors of the Federal Reserve System to add to and reclassify reserve cities, see section 248 of this title.

Reserve cities unaffected by organization of reserve districts and Federal reserve cities, see section 224 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 142. Banks in reserve cities; reserves

National banking associations located in reserve cities or central reserve cities shall maintain reserves provided for in section 462 of this title for banks so located.

(R.S. § 5191; Dec. 23, 1913, ch. 6, §§ 19, 27, 38 Stat. 270, 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239.)

REFERENCES IN TEXT

Section 462 of this title, referred to in text, was omitted from the Code. See section 461 of this title.

CODIFICATION

R.S. § 5191 derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

TERMINATION OF CENTRAL RESERVE CITIES

Central reserve cities terminated, see section 3(b) of Pub. L. 86-114, July 28, 1959, 73 Stat. 263 set out as a note under section 141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828 of this title.

§ 143. Banks in Alaska and insular possessions; lawful money reserves

Every national banking association located in Alaska or in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal reserve system, shall at all times have on hand in lawful money of the United States an amount equal to at least 15 percent of the aggregate amount of its deposits in all respects. Whenever the lawful money of any such association shall fall below 15 percent of its deposits such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange payable at sight nor make any dividends of its profits until the required proportion between the aggregate amount of its deposits and its lawful money of the United States has been restored. And the Comptroller of the Currency shall notify any such association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such association shall fail for thirty days thereafter so to make good its lawful money the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association as provided in section 192 of this title.

(R.S. § 5191.)

CODIFICATION

R.S. § 5191 derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Banks in dependencies or insular possessions as members of the Federal Reserve System, see section 466 of this title.

§ 144. Certain balances counted toward reserves in dependencies and insular possessions

Four-fifths of the reserve of 15 per centum which a national bank located in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal Reserve System, is required to keep, may consist of balances due such bank from associations approved by the Comptroller of the Currency and located in any one of the reserve cities as now or hereafter defined by law or designated by the Board of Governors of the Federal Reserve System.

(R.S. §5192; July 1, 1952, ch. 536, 66 Stat. 314; June 25, 1959, Pub. L. 86-70, §7, 73 Stat. 142; July 28, 1959, Pub. L. 86-114, §3(b)(3), 73 Stat. 263.)

CODIFICATION

R.S. §5192 derived from act June 3, 1864, ch. 106, §31, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-114 struck out “central reserve or” before “reserve cities”.

Pub. L. 86-70 struck out “in Alaska or” before “in a dependency”.

1952—Act July 1, 1952, reduced the required amount of cash on hand from two-fifths to one-fifth of the required reserve of 15 per centum.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a Central Reserve and Reserve Cities note under section 141 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Banks in dependencies or insular possessions as members of Federal Reserve System, see section 466 of this title.

§§ 145, 146. Repealed. Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 145, act July 14, 1890, ch. 708, §2, 26 Stat. 289, authorized counting of treasury notes held by national banking associations as part of their lawful reserve.

Section 146, act July 12, 1882, ch. 290, §12, 22 Stat. 165, related to holding of gold and silver certificates by national banking associations.

SUBCHAPTER IX—FORMATION OF ASSOCIATIONS TO ISSUE GOLD NOTES

§§ 151 to 153. Repealed. Pub. L. 103-325, title VI, §602(e)(22), (23), (f)(7), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 151, R.S. §5185; Jan. 19, 1875, ch. 19, 18 Stat. 302, related to organization of associations to issue gold notes.

Section 152, R.S. §5186, related to mandatory establishment of lawful money reserves by associations issuing gold notes and reception by such associations of gold notes of other associations in payment of debts.

Section 153, act Feb. 14, 1880, ch. 25, 21 Stat. 66, related to conversion of gold banks into currency banks.

SUBCHAPTER X—BANK EXAMINATIONS; REPORTS

§ 161. Reports to Comptroller of the Currency

(a) Reports of condition; form; contents; date of making; publication

Every association shall make reports of condition to the Comptroller of the Currency in accordance with the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The Comptroller of the Currency may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may call for special reports

from any particular association whenever in his judgment the same are necessary for his use in the performance of his supervisory duties. Each report of condition shall contain a declaration by the president, a vice president, the cashier, or by any other officer designated by the board of directors of the bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the bank other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. Each report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day specified by the Comptroller, and shall be transmitted to the Comptroller within the period of time specified by the Comptroller. Special reports called for by the Comptroller need contain only such information as is specified by the Comptroller in his request therefor, and publication of such reports need be made only if directed by the Comptroller.

(b) Payment of dividends

Every association shall make to the Comptroller reports of the payment of dividends, including advance reports of dividends proposed to be declared or paid in such cases and under such conditions as the Comptroller deems necessary to carry out the purposes of the laws relating to national banking associations in such form and at such times as he may require.

(c) Reports of affiliates; form; contents; date of making; publication; penalties

Each national banking association shall obtain from each of its affiliates other than member banks and furnish to the Comptroller of the Currency not less than four reports during each year, in such form as the Comptroller may prescribe, verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, disclosing the information hereinafter provided for as of dates identical with those for which the Comptroller shall during such year require the reports of the condition of the association. Each such report of an affiliate shall be transmitted to the Comptroller at the same time as the corresponding report of the association, except that the Comptroller may, in his discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Comptroller of the Currency shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Comptroller to inform himself as to the effect of such relations upon the affairs of such bank. The Comptroller shall also have power to call for additional reports with respect to any such affiliate whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of the conditions of the association with which it is affiliated. Such additional reports shall be transmitted to the Comptroller of the Currency in such form as he may prescribe.

(R.S. § 5211; Feb. 27, 1877, ch. 69, §1, 19 Stat. 252; Dec. 28, 1922, ch. 18, 42 Stat. 1067; Feb. 25, 1927, ch. 191, §13, 44 Stat. 1232; June 16, 1933, ch. 89, §27, 48 Stat. 191; Sept. 8, 1959, Pub. L. 86-230, §§11, 22(b), 73 Stat. 458, 466; July 14, 1960, Pub. L. 86-671, §5, 74 Stat. 551; July 1, 1966, Pub. L. 89-485, §13(d), 80 Stat. 243; Aug. 9, 1989, Pub. L. 101-73, title IX, §911(b)(1), 103 Stat. 478; Sept. 23, 1994, Pub. L. 103-325, title III, §308(a), 108 Stat. 2218.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

R.S. §5211 derived from act June 3, 1864, ch. 106, §34, 13 Stat. 109, which was the National Bank Act, and act Mar. 3, 1869, ch. 130, §1, 15 Stat. 326. See section 38 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-325, §308(a)(1), struck out before period at end of fifth sentence “; and the statement of resources and liabilities in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association, and such proof of publication shall be furnished as may be required by the Comptroller”.

Subsec. (c). Pub. L. 103-325, §308(a)(2), struck out after third sentence “The reports of such affiliates shall be published by the association under the same conditions as govern its own condition reports.”

1989—Subsec. (a). Pub. L. 101-73, §911(b)(1)(A), in fifth sentence substituted “within the period of time specified by the Comptroller” for “within ten days after the receipt of a request therefor from him”.

Subsec. (c). Pub. L. 101-73, §911(b)(1)(B), struck out at end “Any such affiliated bank which fails to obtain and furnish any report required under this section shall be subject to a penalty of \$100 for each day during which such failure continues.”

1966—Subsec. (c). Pub. L. 89-485 struck out second sentence stating that the term “affiliate” shall include holding company affiliates as well as other affiliates.

1960—Subsec. (a). Pub. L. 86-671, §5(a), designated existing provisions of former first par. as subsec. (a), substituted provisions relating to the making of reports of condition in accordance with the Federal Deposit Insurance Act and additional reports of condition containing declaration of officer for former provisions requiring minimum of three reports annually verified by an officer, inserted provisions respecting contents and publication of special reports and deleted requirement for making reports of payment of dividends, which is incorporated in subsec. (b) of this section.

Subsec. (b). Pub. L. 86-671, §5(a), designated existing provisions of former first par. as subsec. (b).

Subsec. (c). Pub. L. 86-671, §5(b), designated existing provisions of former second par. as subsec. (c) and substituted “four” for “three” in first sentence.

1959—Pub. L. 86-230 required transmission of reports to the Comptroller within ten instead of five days and the making of reports of the payment of dividends including advance reports of dividends proposed to be declared or paid, respectively.

1933—Act June 16, 1933, added second par.

1927—Act Feb. 25, 1927, inserted “or of a vice-president, or of an assistant cashier of the association designated by its board of directors to verify such reports in the absence of the president and cashier, taken be-

fore a notary public properly authorized and commissioned by the State in which such notary resides and the association is located, or any other officer having an official seal, authorized in such State to administer oaths” in first sentence, and “and the statement of resources and liabilities together with acknowledgment and attestation”, in second sentence.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 911(i)[(g)] of Pub. L. 101-73 provided that: “The amendments made by this section [amending this section and sections 164, 324, 1782, 1817, 1847, and 1882 of this title] shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act [Aug. 9, 1989].”

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Comptroller not subject to provisions relating to coordination of Federal reports, see section 3507 of Title 44, Public Printing and Documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 164 of this title; title 7 section 6f; title 15 sections 78o-5, 78q.

§ 162. Repealed. Pub. L. 86-671, § 6, July 14, 1960, 74 Stat. 552.

Section, act Feb. 26, 1881, ch. 82, 21 Stat. 352, prescribed the manner of verification of reports of condition of national banks. See section 1817 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as an Effective Date of 1960 Amendment note under section 1817 of this title.

§ 163. Repealed. Pub. L. 86-230, § 22(a), Sept. 8, 1959, 73 Stat. 466

Section, R.S. §5212, related to report of dividends and net earnings. See section 161 of this title.

§ 164. Penalty for failure to make reports

(a) First tier

Any association which—

(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(B) submits or publishes any false or misleading report or information; or

(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inad-

vertent and that a report was inadvertently transmitted or published late.

(b) Second tier

Any association which—

(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) of this section shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(c) Third tier

Notwithstanding subsections (a) and (b) of this section, if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) of this section submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(d) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) of this section shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

(e) Hearing

Any association against which any penalty is assessed under this subsection¹ shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(R.S. §5213; Pub. L. 86-230, §12, Sept. 8, 1959, 73 Stat. 458; Pub. L. 101-73, title IX, §911(b)(2), Aug. 9, 1989, 103 Stat. 478.)

CODIFICATION

R.S. §5213 derived from act Mar. 3, 1869, ch. 130, §§1, 2, 15 Stat. 326, 327.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “Every association which fails to make and transmit any report required under section 161 of this title shall be subject to a penalty of \$100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due

to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.”

1959—Pub. L. 86-230 substituted “section 161 of this title” for “either section 161 or 163 of this title”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1831k of this title.

§ 165. Omitted

CODIFICATION

Section, R.S. §5241, related to limitation of visitatorial powers. See section 484 of this title.

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

§§ 168 to 177. Repealed. Pub. L. 103-325, title VI, § 602(e)(24)-(31), (f)(4)(D), (5)(A), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 168, R.S. §5160, authorized associations to take up bonds upon returning circulating notes to Comptroller of the Currency.

Section 169, R.S. §5161, related to exchange of United States coupon bonds for registered bonds.

Section 170, R.S. §5162; Aug. 23, 1935, ch. 614, §313, 49 Stat. 711, related to manner of making transfers of bonds.

Section 171, R.S. §5163, related to establishment of registry of transferred bonds by Comptroller of the Currency.

Section 172, R.S. §5164, required Comptroller of the Currency to notify national banking associations of transfers from its accounts.

Section 173, R.S. §5165, related to examination of registry and bonds by Comptroller of the Currency and Treasurer of United States.

Section 174, R.S. §5166, related to annual examination of bonds by national banking associations.

Section 175, R.S. §5167, related to custody of bonds and collection of interest.

Section 176, acts June 20, 1874, ch. 343, §4, 18 Stat. 124; June 21, 1917, ch. 32, §9, 40 Stat. 239, provided that associations desiring to withdraw circulating notes could, upon deposit of money with Treasurer of United States, withdraw bonds on deposit with Treasurer for security of such notes.

Section 177, acts July 12, 1882, ch. 290, §8, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; June 21, 1917, ch. 32, §9, 40 Stat. 239, related to amount of bonds banks were required to keep on deposit with Treasurer of United States, as security for circulating notes, and authorized banks having deposits in excess of such amount to reduce, or retire in full, their circulation by depositing lawful money.

§ 177a. Funds available for cost of transporting and redeeming national and Federal Reserve bank notes

The cost of transporting and redeeming outstanding national bank notes and Federal Re-

¹ So in original. Probably should be “section”.

serve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.

(Oct. 10, 1940, ch. 841, 54 Stat. 1093; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(g)(10), 108 Stat. 2294.)

AMENDMENTS

1994—Pub. L. 103-325 amended section generally. Prior to amendment, section read as follows: “After the reimbursement to the Treasury from funds derived from assessments made pursuant to section 177 of this title, of all costs lawfully charged thereto for the fiscal year ending June 30, 1941, the balance of such funds shall be covered into the Treasury as miscellaneous receipts; and thereafter the cost of transporting and redeeming such outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriations for the Treasury Department.”

§ 178. Repealed. Pub. L. 103-325, title VI, § 602(f)(5)(B), Sept. 23, 1994, 108 Stat. 2293

Section, acts July 12, 1882, ch. 290, §9, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; Mar. 4, 1907, ch. 2913, §4, 34 Stat. 1290, authorized national banking associations desiring to withdraw circulating notes to deposit money with Treasurer of United States and withdraw bonds or other securities securing such notes.

SUBCHAPTER XII—VOLUNTARY DISSOLUTION

§ 181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination

Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock. If the liquidation is to be effected in whole or in part through the sale of any of its assets to and the assumption of its deposit liabilities by another bank, the purchase and sale agreement must also be approved by its shareholders owning two-thirds of its stock unless an emergency exists and the Comptroller of the Currency specifically waives such requirement for shareholder approval.

The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the major-

ity of the stock, remove the liquidating agent or committee. The Comptroller of the Currency is authorized to have an examination made at any time into the affairs of the liquidating bank until the claims of all creditors have been satisfied, and the expense of making such examinations shall be assessed against such bank in the same manner as in the case of examinations made pursuant to subchapter XV of chapter 3 of this title.

(R.S. §5220; Aug. 23, 1935, ch. 614, title III, §317, 49 Stat. 712; Sept. 8, 1959, Pub. L. 86-230, §15, 73 Stat. 458.)

REFERENCES IN TEXT

Subchapter XV [§481 et seq.] of chapter 3 of this title, referred to in second par., was in the original a reference to section 5240 of the Revised Statutes.

CODIFICATION

R.S. §5220 derived from act June 3, 1864, ch. 106, §42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-230 required shareholder approval of purchase and sale agreement where there is liquidation of a bank effected through sale of its assets and assumption of deposit liabilities and authorized waiver of such requirement in an emergency.

1935—Act Aug. 23, 1935, added second par.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

New banks organized by Federal Deposit Insurance Corporation after closing of old bank, non-application of this section to, see section 1821 of this title.

Notice of intent to dissolve, see section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 186, 202, 288, 1821 of this title.

§ 182. Notice of intent to dissolve

Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two months in every issue of a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying its creditors to present their claims against the association for payment.

(R.S. §5221; Aug. 9, 1955, ch. 626, 69 Stat. 546.)

CODIFICATION

R.S. §5221 derived from act June 3, 1864, ch. 106, §42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1955—Act Aug. 9, 1955, struck out provisions relating to publication in a newspaper published in the City of

New York, and notification to holders of national bank notes to present them for payment.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

New banks organized by Federal Deposit Insurance Corporation after closing of old bank, non-application of this section to, see section 1821 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 186, 1821 of this title.

§§ 183 to 186. Repealed. Pub. L. 103-325, title VI, § 602(e)(32)–(35), Sept. 23, 1994, 108 Stat. 2292

Section 183, R.S. § 5222, provided that, within six months of voting to liquidate, an association was to deposit with Treasurer of United States money sufficient to redeem all outstanding circulation.

Section 184, R.S. § 5223, exempted associations which wound up business for purpose of consolidating with another association from requirement to deposit money to redeem all outstanding circulation.

Section 185, R.S. § 5224; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, related to reassignment of bonds to association and redemption of notes.

Section 186, R.S. § 5225; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252, related to destruction of redeemed notes by Treasurer.

SUBCHAPTER XIII—RECEIVERSHIP

§ 191. Appointment of Federal Deposit Insurance Corporation as receiver

The Comptroller of the Currency may, without prior notice or hearings, appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 1813(h) of this title)) if the Comptroller determines, in the Comptroller's discretion, that—

- (1) 1 or more of the grounds specified in section 1821(c)(5) of this title exist; or
- (2) the association's board of directors consists of fewer than 5 members.

(June 30, 1876, ch. 156, § 2, formerly § 1, 19 Stat. 63; Sept. 8, 1959, Pub. L. 86-230, § 16, 73 Stat. 458; Dec. 19, 1991, Pub. L. 102-242, title I, § 133(b), 105 Stat. 2271; renumbered § 2 and amended Oct. 28, 1992, Pub. L. 102-550, title XVI, § 1603(d)(6), (7), 106 Stat. 4080.)

PRIOR PROVISIONS

A prior section 2 of act June 30, 1876, was classified to section 65 of this title, prior to repeal by Pub. L. 86-230, § 8, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

1992—Pub. L. 102-550, § 1603(d)(7)(B), substituted “appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 1813(h) of this title))” for “appoint the Federal Deposit Insurance Corporation as receiver for any national banking association” in introductory provisions.

Pub. L. 102-550, § 1603(d)(6), amended directory language of Pub. L. 102-242, § 133(b). See 1991 Amendment note below.

1991—Pub. L. 102-242, § 133(b), as amended by Pub. L. 102-550, § 1603(d)(6), amended section generally. Prior to amendment, section read as follows: “Whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section 93 of this title, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the comptroller shall become satisfied of the insolvency of a national banking association, he may, after due examination of its affairs, in either case, appoint a receiver, who shall proceed to close up such association.”

1959—Pub. L. 86-230 struck out provisions which required receiver to enforce the personal liability of shareholders.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1609 of Pub. L. 102-550 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b) or any other provision of this subtitle [subtitle A (§§ 1601-1609) of title XVI of Pub. L. 102-550, see Tables for classification], the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 [Pub. L. 102-242] as of the date of the enactment of such Act [Dec. 19, 1991].

“(b) EFFECTIVE DATE OF CERTAIN AMENDMENTS.—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 [see Tables for classification] effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 133(g) of Pub. L. 102-242 provided that: “The amendments made by this section [amending this section and sections 203, 248, 1464, and 1821 of this title] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].”

SHORT TITLE

Section 1 of act June 30, 1876, as added by act Oct. 28, 1992, Pub. L. 102-550, title XVI, § 1603(d)(7)(A), 106 Stat. 4080, provided that: “This Act [enacting this section, sections 65 and 197 of this title, and section 424 of former Title 31, Money and Finance, and amending section 55 of this title] may be cited as the ‘National Bank Receivership Act’.”

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

Pub. L. 96-221, title VII, §§ 721-723, Mar. 31, 1980, 94 Stat. 190, 191, as amended Pub. L. 97-320, title IV, § 409, Oct. 15, 1982, 96 Stat. 1515, provided that:

“SEC. 721. The purpose of this part [enacting this provision] is to terminate the closed receivership fund by—

“(1) providing final notice of availability of liquidating dividends to creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation;

“(2) barring rights of creditors to collect liquidating dividends from the Comptroller of the Currency after a reasonable period of time following such final notice; and

“(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.”

“SEC. 722. For purposes of this part—

“(1) the term ‘closed receivership fund’ means the aggregation of undisbursed liquidating dividends from national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation, held by the Comptroller in his capacity as successor to receivers of those banks;

“(2) the term ‘Comptroller’ means the Comptroller of the Currency;

“(3) the term ‘claimant’ means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

“(4) the term ‘liquidating dividend’ means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

“SEC. 723. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice.

“(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

“(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

“(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 197, 205 of this title.

§ 192. Default in payment of circulating notes

On becoming satisfied, as specified in sections 131 and 132¹ of this title, that any association is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court

shall direct. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

Provided, That the Comptroller may, if he deems proper, deposit any of the money so made in any regular Government depository, or in any State or national bank either of the city or town in which the insolvent bank was located or of a city or town as adjacent thereto as practicable; if such deposit is made he shall require the depository to deposit United States bonds or other satisfactory securities with the Treasurer of the United States for the safekeeping and prompt payment of the money so deposited: *Provided*, That no security in the form of deposit of United States bonds, or otherwise, shall be required in the case of such parts of the deposits as are insured under section 12B of the Federal Reserve Act, as amended. Such depository shall pay upon such money interest at such rate as the Comptroller may prescribe, not less, however, than 2 per centum per annum upon the average monthly amount of such deposits.

(R.S. §5234; May 15, 1916, ch. 121, 39 Stat. 121; Aug. 23, 1935, ch. 614, title III, §339, 49 Stat. 721; Sept. 8, 1959, Pub. L. 86-230, §17, 73 Stat. 458; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(g)(11), 108 Stat. 2294.)

REFERENCES IN TEXT

Sections 131 and 132 of this title, referred to in text, were repealed by Pub. L. 103-325, title VI, §602(e)(14), (15), Sept. 23, 1994, 108 Stat. 2292.

Section 12B of the Federal Reserve Act, as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified generally to chapter 16 (§1811 et seq.) of this title.

CODIFICATION

R.S. §5234 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out “has refused to pay its circulating notes as therein mentioned, and” before “is in default”.

1959—Pub. L. 86-230 struck out provisions which required receiver to enforce the personal liability of shareholders.

1935—Act Aug. 23, 1935, inserted second proviso in second par.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567 (D.C. Code, §26-104).

INTEREST ON DEPOSITS

So much of existing law requiring the payment of interest with respect to any funds deposited by the United States or by any public instrumentality, agency, or officer thereof, as is inconsistent with sections 371a, 371b, 374, 374a, 461, former sections 462 to 465, and section 466 of this title, repealed, see section 371a of this title.

¹ See References in Text note below.

CROSS REFERENCES

Certifying check when amount of deposit was inadequate, proceedings under this section, see section 501 of this title.

Failure to pay up capital stock, appointment of receiver under this section, see section 55 of this title.

Failure to sell or dispose of own capital stock acquired as security or by purchase, appointment of receiver under this section, see section 83 of this title.

Individual liability of shareholders, limitation on liability, see section 64a of this title.

Money reserve falling below required amount in banks in Alaska and insular possessions, appointment of receiver under this section, see section 143 of this title.

Payment of interest on demand deposits, see section 371a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 83, 143, 197, 481, 501, 1467 of this title.

§ 193. Notice to present claims

The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof.

(R.S. § 5235.)

CODIFICATION

R.S. § 5235 derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26–104).

§ 194. Dividends on adjusted claims; distribution of assets

From time to time, the comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

(R.S. § 5236; Pub. L. 103–325, title VI, § 602(g)(12), Sept. 23, 1994, 108 Stat. 2294.)

CODIFICATION

R.S. § 5236 derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103–325 struck out “, after full provision has been first made for refunding to the United States

any deficiency in redeeming the notes of such association” after “From time to time”.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc. in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26–104).

CROSS REFERENCES

Preferential rights of preferred stock on liquidation, see section 51b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 197 of this title.

§ 195. Repealed. Pub. L. 103–325, title VI, § 602(e)(36), Sept. 23, 1994, 108 Stat. 2292

Section, R.S. § 5237; Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167, related to injunction by bank denying failure to redeem notes.

§ 196. Expenses

All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

(R.S. § 5238; Pub. L. 103–325, title VI, § 602(g)(13), Sept. 23, 1994, 108 Stat. 2294.)

CODIFICATION

R.S. § 5238 derived from act June 3, 1864, ch. 106, § 51, 13 Stat. 115, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103–325 struck out at beginning “All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees.”

§ 197. Shareholders’ meeting; continuance of receivership; appointment of agent; winding up business; distribution of assets

(a) Whenever any national banking association shall have been or shall be placed in the hands of a receiver, as provided in section fifty-two hundred and thirty-four [12 U.S.C. 192] and other sections of the Revised Statutes of the United States and section 1821(c) of this title, and when, as provided in section 194 of this title, there has been paid to each and every creditor of such association whose claim or claims as such creditor shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership, the Comptroller of the Currency or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall call a meeting of the shareholders of the association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of the asso-

ciation was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of the association, or whether an agent shall be elected for that purpose, and in so determining the shareholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in number of shares shall be necessary to determine whether the receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the receiver shall be continued, the receiver shall thereupon proceed with the execution of the trust, and shall sell, dispose of, or otherwise collect the assets of the association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed upon such receiver so far as they remain applicable. In case such meeting shall, by the vote of a majority of the stock in number of shares, determine that an agent shall be elected, the meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in number of shares shall be declared the agent for the purposes hereinafter provided; and when such agent shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties to be approved by the district court of the United States for the district where the business of the association was carried on, and shall have filed such bond in the office of the clerk of such court, the Comptroller and the receiver, or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall thereupon transfer and deliver to such agent all the uncollected or other assets of the association then remaining in the hands or subject to the order and control of the Comptroller and such receiver, or either of them, or the Federal Deposit Insurance Corporation; and for this purpose the Comptroller and such receiver, or the Federal Deposit Insurance Corporation, as the case may be, are severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to such agent the Comptroller and such receiver or the Federal Deposit Insurance Corporation shall by virtue of this Act be discharged from any and all liabilities to the association and to each and all the creditors and shareholders thereof.

(b) Upon receiving such deed, assignment, transfer, or other instrument the person elected such agent shall hold, control, and dispose of the assets and property of the association which he may receive under the terms hereof for the benefit of the shareholders of the association, and he

may in his own name, or in the name of the association, sue and be sued and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to the association, with the consent and approval of the district court of the United States for the district where the business of the association was carried on, and shall at the conclusion of his trust render to such district court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge such agent and sureties upon such bond. In case any such agent so elected shall die, resign, or be removed, any shareholder may call a meeting of the shareholders of the association in the town, city, or village where the business of the association was carried on, by giving notice thereof for thirty days in a newspaper published in such town, city, or village, or if no newspaper is there published, in the newspaper published nearest thereto, at which meeting the shareholders shall elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and when such agent shall have received votes representing at least a majority of the stock in number of shares, and shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties, to be approved by such court, and file such bond in the office of the clerk of that court, he shall have all the rights, powers, and duties of the agent first elected as hereinbefore provided. At any meeting held as hereinbefore provided administrators or executors of deceased shareholders may act and sign as the decedent might have done if living, and guardians of minors and trustees of other persons may so act and sign for their ward or wards or cestui que trust. The proceeds of the assets or property of any such association which may be undistributed at the time of such meeting or may be subsequently received shall be distributed as follows:

First. To pay the expenses of the execution of the trust to the date of such payment.

Second. To repay any amount or amounts which have been paid in by any shareholder or shareholders of the association upon and by reason of any and all assessments made upon the stock of the association by order of the Comptroller of the Currency in accordance with the provisions of the statutes of the United States.

Third. To pay the balance ratably among such stockholders, in proportion to the number of shares held and owned by each. Such distribution shall be made from time to time as the proceeds shall be received and as shall be deemed advisable by the Comptroller of the Currency, or the Federal Deposit Insurance Corporation if continued as receiver of the bank under subsection (a) of this section, or such agent, as the case may be.

(June 30, 1876, ch. 156, § 3, 19 Stat. 63; Aug. 3, 1892, ch. 360, 27 Stat. 345; Mar. 2, 1897, ch. 354, 29 Stat. 600; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Sept. 8, 1959, Pub. L. 86-230, § 18, 73 Stat. 458.)

REFERENCES IN TEXT

Section fifty-two hundred and thirty-four and other sections of the Revised Statutes of the United States, referred to in subsec. (a), are classified to section 192 of this title and other sections of the Code. See Tables.

This Act, referred to in subsec. (a), is act June 30, 1876, ch. 156, 19 Stat. 63, as amended, sections 1, 3, and 4 of which are classified to this section and sections 55 and 191 of this title, respectively. Section 2 of the Act, which was classified to section 65 of this title, was repealed by Pub. L. 86-230, § 8, Sept. 8, 1959, 73 Stat. 457. Section 5 of the Act, which was classified to section 424 of former Title 31, was repealed and reenacted as section 5153 of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86-230 designated former first par., less last sentence, as subsec. (a), and incorporated references to Federal Deposit Insurance Corporation respecting receiverships under section 1821(c) of this title, convocation of shareholders, transfer of assets, execution of instruments and discharge from liability, omitted provision for deposit of money with the Treasurer of the United States for the redemption of the circulating notes of the association, and for the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the windup agent to file a bond to the shareholders in an amount satisfactory to them with sureties approved by appropriate district court instead of a bond from the shareholders satisfactory to the Comptroller and to condition the bond to payment of proved claims to the extent possible from the remaining instead of payment of the claims in full, only.

Subsec. (b). Pub. L. 86-230 designated former last sentence of first par. and second par., as subsec. (b), and omitted provisions which related to refusal of agent to serve as a ground for the calling of an election of another agent, to the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the bond of the windup agent to be conditioned for payment of proved claims to the extent possible from the remaining assets instead of payment of the claims in full, only, and provided for the distribution of the balance as shall be deemed advisable by the Federal Deposit Insurance Corporation.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

Act Mar. 3, 1911, conferred upon the district courts all powers formerly vested in the former circuit courts.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

§ 197a. Resumption of business by closed bank on consent of depositors

In any case in which, in the opinion of the Comptroller of the Currency, it would be to the advantage of the depositors and unsecured creditors of any national banking association whose business has been closed, for such association to resume business upon the retention by the association, for a reasonable period to be prescribed by the Comptroller, of all or any part of its deposits, the Comptroller is authorized, in his dis-

cretion, to permit the association to resume business if depositors and unsecured creditors of the association representing at least 75 per centum of its total deposit and unsecured credit liabilities consent in writing to such retention of deposits. Nothing in this section shall be construed to affect in any manner any powers of the Comptroller under the provisions of law in force on June 16, 1933, with respect to the reorganization of national banking associations.

(June 16, 1933, ch. 89, § 29, 48 Stat. 193.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 198. Purchase by receiver of property of bank; request to Comptroller

Whenever the receiver of any national bank duly appointed by the Comptroller of the Currency, and who shall have duly qualified and entered upon the discharge of his trust, shall find it in his opinion necessary, in order to fully protect and benefit his said trust, to the extent of any and all equities that such trust may have in any property, real or personal, by reason of any bond, mortgage, assignment, or other proper legal claim attaching thereto, and which said property is to be sold under any execution, decree of foreclosure, or proper order of any court of jurisdiction, he may certify the facts in the case, together with his opinion as to the value of the property to be sold, and the value of the equity his said trust may have in the same, to the Comptroller of the Currency, together with a request for the right and authority to use and employ so much of the money of said trust as may be necessary to purchase such property at such sale.

(Mar. 29, 1886, ch. 28, § 1, 24 Stat. 8.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

§ 199. Approval of request

Such request, if approved by the Comptroller of the Currency, shall be, together with the certificate of facts in the case, and his recommendation as to the amount of money which, in his judgment, should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him, the request shall be by the Comptroller of the Currency allowed, and notice thereof, with copies of the request, certificate of facts, and indorsement of approvals, shall be filed with the Treasurer of the United States.

(Mar. 29, 1886, ch. 28, § 2, 24 Stat. 8.)

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

§ 200. Payment

Whenever any such request shall be allowed as hereinbefore provided, the said Comptroller of the Currency shall be, and is, empowered to draw upon and from such funds of any such trust as may be deposited with the Treasurer of the United States for the benefit of the bank in interest, to the amount as may be recommended and allowed and for the purpose for which such allowance was made: *Provided, however*, That all payments to be made for or on account of the purchase of any such property and under any such allowance shall be made by the Comptroller of the Currency direct, with the approval of the Secretary of the Treasury, for such purpose only and in such manner as he may determine and order.

(Mar. 29, 1886, ch. 28, § 3, 24 Stat. 8.)

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SUBCHAPTER XIV—BANK CONSERVATION
ACT**§ 201. Short title**

This subchapter may be cited as the “Bank Conservation Act.”

(Mar. 9, 1933, ch. 1, title II, § 201, 48 Stat. 2.)

CROSS REFERENCES

Right to amend, separability of provisions, see section 212 of this title.

§ 202. Definitions

As used in this subchapter, the term “bank” means (1) any national banking association or any other financial institution chartered or licensed under Federal law and subject to the supervision of the Comptroller of the Currency, and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency; the term “voluntary dissolution and liquidation” means a transaction pursuant to section 181 of this title that involves the assumption of the bank’s insured deposit liabilities and the sale of the bank, or of control of the bank, as a going concern; and the term “State” means any State, Territory, or possession of the United States, and the Canal Zone.

(Mar. 9, 1933, ch. 1, title II, § 202, 48 Stat. 2; Aug. 9, 1989, Pub. L. 101-73, title VIII, § 801, 103 Stat. 441.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1989—Pub. L. 101-73, § 801(1), in cl. (1), extended term “bank” to include any financial institution chartered or licensed under Federal law and subject to supervision of Comptroller of the Currency.

Pub. L. 101-73, § 801(2), in cl. (2), inserted definition of term “voluntary dissolution and liquidation”.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 203. Appointment of conservator**(a) Appointment**

The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act [12 U.S.C. 1821(c)(5)] exist.

(b) Judicial review**(1) In general**

Not later than 20 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of the conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller’s decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Stay

The conservator may request that any judicial action or proceeding to which the conservator or the bank is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(3) Actions and orders

Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator. A court, upon application by the Comptroller, shall have jurisdiction to enforce an order of the Comptroller relating to—

(A) the conservatorship and the bank in conservatorship, or

(B) restraining or affecting the exercise of powers or functions of a conservator.

(c) Additional grounds for appointment

In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank if—

(1) the bank, by an affirmative vote of a majority of its board of directors or by an affirm-

ative vote of a majority of its shareholders, consents to such appointment, or

(2) the Federal Deposit Insurance Corporation terminates the bank's status as an insured bank.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

(d) Exclusive authority

The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators of banks under this Act and any other provision of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

(e) Replacement of conservator

The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) of this section to obtain judicial review of the Comptroller's original decision to appoint a conservator.

(Mar. 9, 1933, ch. 1, title II, §203, 48 Stat. 2; Aug. 9, 1989, Pub. L. 101-73, title VIII, §802, 103 Stat. 442; Dec. 19, 1991, Pub. L. 102-242, title I, §133(c), 105 Stat. 2271.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (d), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

This Act, referred to in subsec. (d), is act Mar. 9, 1933, ch. 1, 48 Stat. 1, as amended, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95 to 95b, 201 to 212, 248, 347b, 347c, 347d, 445 of this title and to section 5 of Title 50, Appendix, War and National Defense.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, §206(b), (c), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note set out under section 51b-1 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-242 amended subsec. (a) generally, substituting present provisions for provisions which specified circumstances under which Comptroller could appoint conservator.

1989—Pub. L. 101-73 amended section generally, changing structure of section from a single unlettered paragraph to one consisting of subsections (a) to (e).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102-242, set out as a note under section 191 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CONSERVATORS OF STATE BANKS

Ex. Ord. No. 6080, Mar. 18, 1933, provided for appointment of conservators of State banks under certain regulations.

§ 204. Examinations

The Comptroller of the Currency (in consultation with the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator) is authorized to examine and supervise the bank in conservatorship as long as the bank continues to operate as a going concern. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.

(Mar. 9, 1933, ch. 1, title II, §204, 48 Stat. 3; Aug. 9, 1989, Pub. L. 101-73, title VIII, §803, 103 Stat. 443.)

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "The Comptroller of the Currency shall cause to be made such examinations of the affairs of such bank as shall be necessary to inform him as to the financial condition of such bank, and the examiner shall make a report thereon to the Comptroller of the Currency at the earliest practicable date."

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 205. Termination of conservatorship

(a) General rule

At any time the Comptroller¹ becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller (with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation has been appointed conservator) may—

(1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions, and limitations as the Comptroller may prescribe; or

(2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation of the involved bank.

(b) Other grounds for termination

The Comptroller also may terminate the conservatorship upon the appointment of a receiver pursuant to section 191 of this title.

(c) Enforcement under Federal Deposit Insurance Act

Such terms, conditions, and limitations as may be prescribed under subsection (a)(1) of this section shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)], to the same extent as an order issued pursuant to section 8(b) of the Federal Deposit Insurance Act [12 U.S.C. 1818(b)]

¹ So in original. Probably should be "Comptroller of the Currency".

which has become final. The bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions, and limitations may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

(d) Action upon termination

(1) In general

Upon termination of the conservatorship under subsection (a)(2) of this section, the Federal Deposit Insurance Corporation, as conservator, or when another person is appointed conservator, such other person, shall conclude the affairs of the conservatorship in accordance with paragraph (2).

(2) Deposit and distribution of proceeds

(A) Within 180 days of the sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation, the conservator shall deposit all net proceeds received from the transaction, less any outstanding expenses of the conservatorship, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for three consecutive months and notify by mail all known and remaining creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall distribute such funds equitably. If no such action is instituted within one year after the date the funds are deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the district court and giving the required notifications.

(Mar. 9, 1933, ch. 1, title II, §205, 48 Stat. 3; Aug. 9, 1989, Pub. L. 101-73, title VIII, §804, 103 Stat. 443.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (c), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “If the Comptroller of the Currency becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe.”

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 206. Conservator; powers and duties

(a) General powers

A conservator shall have all the powers of the shareholders, directors, and officers of the bank and may operate the bank in its own name unless the Comptroller¹ in the order of appointment limits the conservator's authority.

(b) Subject to rules of Comptroller

The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders or in section 209 of this title, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of a national bank.

(c) Payment of depositors and creditors

The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for that purpose. All depositors and creditors who are similarly situated shall be treated in the same manner.

(d) Compensation of conservator and employees

The conservator and professional employees appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Comptroller determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) Expenses

All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.

(Mar. 9, 1933, ch. 1, title II, §206, 48 Stat. 3; Aug. 9, 1989, Pub. L. 101-73, title VIII, §805, 103 Stat. 445.)

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “While such bank is in the hands of the conservator appointed by the Comptroller of the Currency, the Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose; and the Comptroller may, in his discretion, permit the conservator to receive deposits, but deposits received while the bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be seg-

¹ So in original. Probably should be “Comptroller of the Currency”.

regated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited with a Federal reserve bank. The Federal reserve banks are authorized to open and maintain separate deposit accounts for such purpose, or for the purpose of receiving deposits from State officials in charge of State banks under similar circumstances."

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5373.

§§ 207, 208. Repealed. Pub. L. 101-73, title VIII, § 808, Aug. 9, 1989, 103 Stat. 446

Section 207, acts Mar. 9, 1933, ch. 1, title II, § 207, 48 Stat. 3; May 20, 1933, ch. 34, 48 Stat. 72, prescribed conditions for reorganization of banks, requiring consent of depositors and other creditors, of stockholders, or of both depositors and other creditors and stockholders, namely that the reorganization plan be fair and equitable to depositors, other creditors, and stockholders and be in the public interest; that the plan be consented to in writing; and that the approved plan be binding on all consenting or nonconsenting depositors, creditors, and stockholders.

Section 208, act Mar. 9, 1933, ch. 1, title II, § 208, 48 Stat. 4, made the provisions for segregation of deposits inapplicable after termination of conservatorship, and provided for termination of conservatorship after publication of notice of termination and mailing of a copy of such notice by registered mail to depositors of record.

§ 209. Liability protection

(a) Federal agency and employees

In any case in which the conservator is a Federal agency or an employee of the Government, the provisions of chapters 161 and 171 of title 28 shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) Other conservators

In any case where the conservator is not a conservator described in subsection (a) of this section, the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) Indemnification

The Comptroller¹ shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.

(Mar. 9, 1933, ch. 1, title II, § 209, 48 Stat. 5; Sept. 3, 1954, ch. 1263, § 23, 68 Stat. 1234; Aug. 9, 1989, Pub. L. 101-73, title VIII, § 806, 103 Stat. 445.)

¹ So in original. Probably should be "Comptroller of the Currency".

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "Conservators appointed pursuant to the provisions of this subchapter shall be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18; and sections 202, 216, 281, 431, 432, and 433 of title 18, in so far as applicable, are extended to apply to contracts, agreements, proceedings, dealings, claims and controversies by or with any such conservator or the Comptroller of the Currency under the provisions of this subchapter."

1954—Act Sept. 3, 1954, corrected references to title 18.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 210. Governmental powers unimpaired

Nothing in this subchapter shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System.

(Mar. 9, 1933, ch. 1, title II, § 210, 48 Stat. 5; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 211. Rules and regulations

(a) In general

The Comptroller of the Currency may prescribe such rules and regulations as the Comptroller may deem necessary to carry out the provisions of this Act.

(b) F.D.I.C. as conservator

In any case in which the Federal Deposit Insurance Corporation is the conservator, any rules or regulations prescribed by the Comptroller shall be consistent with any rules and regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(Mar. 9, 1933, ch. 1, title II, § 211, 48 Stat. 5; Aug. 9, 1989, Pub. L. 101-73, title VIII, § 807, 103 Stat. 446.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Mar. 9, 1933, ch. 1, 48 Stat. 1, as amended, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95 to 95b, 201 to 212, 248, 347b, 347c, 347d, and 445 of this title and section 5 of Title 50, Appendix, War and National Defense.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks,

see References in Text note set out under section 51b-1 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “The Comptroller of the Currency is authorized and empowered, with the approval of the Secretary of the Treasury, to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this subchapter. Whoever violates any rule or regulation made pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than one year, or both.”

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 212. Right to amend; separability

The right to alter, amend, or repeal this Act is expressly reserved. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Mar. 9, 1933, ch. 1, title V, § 502, 48 Stat. 7.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, as amended, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95 to 95b, 201 to 212, 248, 347b, 347c, 347d, and 445 of this title and section 5 of Title 50, Appendix, War and National Defense.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note set out under section 51b-1 of this title.

CODIFICATION

This section was not enacted as part of title II of act Mar. 9, 1933, ch. 1, 48 Stat. 2, which comprises this subchapter.

§ 213. Transferred

CODIFICATION

Section, act Jan. 30, 1934, ch. 6, § 13, 48 Stat. 343, relating to ratification of acts of the President and Secretary of the Treasury, was transferred to section 824 of former Title 31, and subsequently repealed by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

SUBCHAPTER XV—CONVERSION OF NATIONAL BANKS INTO STATE BANKS

§ 214. Definitions

(a) As used in this subchapter and section 321 of this title the term “State bank” means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in

the business of receiving deposits and which is incorporated under the laws of any State, any Territory of the United States, Puerto Rico, or the Virgin Islands, or which is operating under the Code of Law for the District of Columbia (except a national banking association).

(b) For purposes of merger or consolidation under this subchapter and section 321 of this title the term “national banking association” means one or more national banking associations, and the term “State bank” means one or more State banks.

(Aug. 17, 1950, ch. 729, § 1, 64 Stat. 455; Sept. 3, 1954, ch. 1263, § 24, 68 Stat. 1234.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted “this subchapter and section 321 of this title” for “sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title” wherever appearing.

SEPARABILITY

Section 9 of act Aug. 17, 1950, provided that: “If any provision of this Act [enacting this subchapter and amending of sections 264 and 321 of this title], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.”

CROSS REFERENCES

Consolidation of State bank with national bank under charter of such national bank, see section 215 of this title.

Conversation of State bank into national bank, see sections 215 to 215b of this title.

§ 214a. Procedure for conversion, merger, or consolidation; vote of stockholders

A national banking association may, by vote of the holders of at least two-thirds of each class of its capital stock, convert into, or merge or consolidate with, a State bank in the same State in which the national banking association is located, under a State charter, in the following manner:

(a) Approval of board of directors; publication of notice of stockholders’ meeting; waiver of publication; notice by registered or certified mail

The plan of conversion, merger, or consolidation must be approved by a majority of the entire board of directors of the national banking association. The bank shall publish notice of the time, place, and object of the shareholders’ meeting to act upon the plan, in some newspaper with general circulation in the place where the principal office of the national banking association is located, at least once a week for four consecutive weeks: *Provided*, That newspaper publication may be dispensed with entirely if waived by all the shareholders and in the case of a merger or consolidation one publication at least ten days before the meeting shall be sufficient if publication for four weeks is waived by holders of at least two-thirds of each class of capital stock and prior written consent of the Comptroller of the Currency is obtained. The national banking association shall send such notice to each shareholder of record by registered mail or by certified mail at least ten

days prior to the meeting, which notice may be waived specifically by any shareholder.

(b) Rights of dissenting stockholders

A shareholder of a national banking association who votes against the conversion, merger, or consolidation, or who has given notice in writing to the bank at or prior to such meeting that he dissents from the plan, shall be entitled to receive in cash the value of the shares held by him, if and when the conversion, merger, or consolidation is consummated, upon written request made to the resulting State bank at any time before thirty days after the date of consummation of such conversion, merger, or consolidation, accompanied by the surrender of his stock certificates. The value of such shares shall be determined as of the date on which the shareholders' meeting was held authorizing the conversion, merger, or consolidation, by a committee of three persons, one to be selected by majority vote of the dissenting shareholders entitled to receive the value of their shares, one by the directors of the resulting State bank, and the third by the two so chosen. The valuation agreed upon by any two of three appraisers thus chosen shall govern; but, if the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment as provided herein, such shareholder may within five days after being notified of the appraised value of his shares appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding as to the value of the shares of the appellant. If, within ninety days from the date of consummation of the conversion, merger, or consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party, cause an appraisal to be made, which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal, or the appraisal as the case may be, shall be paid by the resulting State bank. The plan of conversion, merger, or consolidation shall provide the manner of disposing of the shares of the resulting State bank not taken by the dissenting shareholders of the national banking association.

(Aug. 17, 1950, ch. 729, § 2, 64 Stat. 455; June 11, 1960, Pub. L. 86-507, § 1(10), 74 Stat. 200; Mar. 31, 1980, Pub. L. 96-221, title VII, § 706, 94 Stat. 188.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-221 substituted "majority" for "unanimous".

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" after "registered mail".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 214c of this title.

§ 214b. Continuation of business and corporate entity

The franchise of a national banking association as a national banking association shall automatically terminate when its conversion into or its merger or consolidation with a State bank under a State charter is consummated and

the resulting State bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers, and duties the resulting bank is a State bank. Any references to such national banking association in any contract, will, or document shall be considered a reference to the State bank if not inconsistent with the provisions of the contract, will, or document or applicable law.

(Aug. 17, 1950, ch. 729, § 3, 64 Stat. 456.)

§ 214c. Conversions in contravention of State law

No conversion of a national banking association into a State bank or its merger or consolidation with a State bank shall take place under this subchapter and section 321 of this title in contravention of the law of the State in which the national banking association is located; and no such conversion, merger, or consolidation shall take place under said sections unless under the law of the State in which such national banking association is located State banks may without approval by any State authority convert into and merge or consolidate with national banking associations under limitations or conditions no more restrictive than those contained in section 214a of this title with respect to the conversion of a national bank into, or merger or consolidation of a national bank with, a State bank under State charter.

(Aug. 17, 1950, ch. 729, § 4, 64 Stat. 456; July 12, 1952, ch. 696, 66 Stat. 590; Sept. 3, 1954, ch. 1263, § 25, 68 Stat. 1235.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "this subchapter and section 321 of this title" for "sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title".

1952—Act July 12, 1952, amended section so that the limitation of this section beyond which State law cannot go will be measured by the standard set out in section 214a of this title for National-to-State conversions.

SUBCHAPTER XVI—CONSOLIDATION AND MERGER

§ 215. Consolidation of banks within same State

(a) In general

Any national bank or any bank incorporated under the laws of any State may, with the approval of the Comptroller, be consolidated with one or more national banking associations located in the same State under the charter of a national banking association on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each association or bank proposing to consolidate, and be ratified and confirmed by the affirmative vote of the shareholders of each such association or bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of such State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or bank is located, or, if there is no

such newspaper, then in the paper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank.

(b) Liability of consolidated association; capital stock; dissenting shareholders

The consolidated association shall be liable for all liabilities of the respective consolidating banks or associations. The capital stock of such consolidated association shall not be less than that required under existing law for the organization of a national bank in the place in which it is located: *Provided*, That if such consolidation shall be voted for at such meetings by the necessary majorities of the shareholders of each association and State bank proposing to consolidate, and thereafter the consolidation shall be approved by the Comptroller, any shareholder of any of the associations or State banks so consolidated who has voted against such consolidation at the meeting of the association or bank of which he is a stockholder, or who has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him when such consolidation is approved by the Comptroller upon written request made to the consolidated association at any time before thirty days after the date of consummation of the consolidation, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the consolidation, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the consolidated banking association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Appraisal by Comptroller; expenses of consolidated association; sale and resale of shares; State appraisal and consolidation law

If, within ninety days from the date of consummation of the consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to deter-

mine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the consolidated banking association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the consolidated banking association. Within thirty days after payment has been made to all dissenting shareholders as provided for in this section the shares of stock of the consolidated banking association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the consolidated banking association at an advertised public auction, unless some other method of sale is approved by the Comptroller, and the consolidated banking association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders the excess in such sale price shall be paid to such shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such consolidation shall be in contravention of the law of the State under which such bank is incorporated.

(e) Status of consolidated association; property rights and interests vested and held as fiduciary

The corporate existence of each of the consolidating banks or banking associations participating in such consolidation shall be merged into and continued in the consolidated national banking association and such consolidated national banking association shall be deemed to be the same corporation as each bank or banking association participating in the consolidation. All rights, franchises, and interests of the individual consolidating banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the consolidated national banking association by virtue of such consolidation without any deed or other transfer. The consolidated national banking association, upon the consolidation and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, and committee of estates of lunatics, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the consolidating banks or banking associations at the time of consolidation, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any consolidating bank or banking association, at the time of the consolidation, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or committee of estates of lunatics, or in any other fiduciary capacity, the consolidated national banking association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such consolidating bank or banking association prior to the consolidation. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the consolidated national banking association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any consolidated national banking association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by consolidated association; preemptive rights

Stock of the consolidated national banking association may be issued as provided by the terms of the consolidation agreement, free from any preemptive rights of the shareholders of the respective consolidating banks.

(Nov. 7, 1918, ch. 209, §2, formerly §1, as added Sept. 8, 1959, Pub. L. 86-230, §20, 73 Stat. 460; renumbered §2 and amended Sept. 29, 1994, Pub. L. 103-328, title I, §102(b)(4)(C), 108 Stat. 2351.)

CODIFICATION

Provisions similar to those comprising this section were contained in sections 1 and 2 of act Nov. 7, 1918, ch. 209, 40 Stat. 1043, and section 3 of act Nov. 7, 1918, ch. 209, added Feb. 25, 1927, ch. 191, §1, 44 Stat. 1225 (formerly classified to sections 33 to 34a of this title) prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

AMENDMENTS

1994—Pub. L. 103-328 inserted section catchline and, in subsec. (a), inserted heading and substituted “Any national bank” for “Any national banking association”.

SHORT TITLE

Section 1 of act Nov. 7, 1918, ch. 209, as added Sept. 29, 1994, Pub. L. 103-328, title I, §102(b)(4)(C), 108 Stat. 2351, provided that: “This Act [enacting this subchapter] may be cited as the ‘National Bank Consolidation and Merger Act’.”

§ 215a. Merger of national banks or State banks into national banks**(a) Approval of Comptroller, board and shareholders; merger agreement; notice; capital stock; liability of receiving association**

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association. The merger agreement shall—

(1) be agreed upon in writing by a majority of the board of directors of each association or

State bank participating in the plan of merger;

(2) be ratified and confirmed by the affirmative vote of the shareholders of each such association or State bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of a State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors, after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or State bank is located, or, if there is no such newspaper, then in the newspaper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State banks;

(3) specify the amount of the capital stock of the receiving association, which shall not be less than that required under existing law for the organization of a national bank in the place in which it is located and which will be outstanding upon completion of the merger, the amount of stock (if any) to be allocated, and cash (if any) to be paid, to the shareholders of the association or State bank being merged into the receiving association; and

(4) provide that the receiving association shall be liable for all liabilities of the association or State bank being merged into the receiving association.

(b) Dissenting shareholders

If a merger shall be voted for at the called meetings by the necessary majorities of the shareholders of each association or State bank participating in the plan of merger, and thereafter the merger shall be approved by the Comptroller, any shareholder of any association or State bank to be merged into the receiving association who has voted against such merger at the meeting of the association or bank of which he is a stockholder, or has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of merger, shall be entitled to receive the value of the share so held by him when such merger shall be approved by the Comptroller upon written request made to the receiving association at any time before thirty days after the date of consummation of the merger, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the merger, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the

majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the receiving association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Application to shareholders of merging associations: appraisal by Comptroller; expenses of receiving association; sale and resale of shares; State appraisal and merger law

If, within ninety days from the date of consummation of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the receiving association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the receiving association. The shares of stock of the receiving association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the receiving association at an advertised public auction, and the receiving association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders, the excess in such sale price shall be paid to such dissenting shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such merger shall be in contravention of the law of the State under which such bank is incorporated. The provisions of this subsection shall apply only to shareholders of (and stock owned by them in) a bank or association being merged into the receiving association.

(e) Status of receiving association; property rights and interests vested and held as fiduciary

The corporate existence of each of the merging banks or banking associations participating in such merger shall be merged into and continued in the receiving association and such receiving association shall be deemed to be the same corporation as each bank or banking association participating in the merger. All rights, franchises, and interests of the individual merging banks or banking associations in and to every type of property (real, personal, and mixed) and

choses in action shall be transferred to and vested in the receiving association by virtue of such merger without any deed or other transfer. The receiving association, upon the merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver and committee of estates of lunatics, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the merging banks or banking associations at the time of the merger, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any merging bank or banking association, at the time of the merger, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or committee of estates of lunatics, or in any other fiduciary capacity, the receiving association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such merging bank or banking association prior to the merger. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the receiving association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any receiving association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by receiving association; preemptive rights

Stock of the receiving association may be issued as provided by the terms of the merger agreement, free from any preemptive rights of the shareholders of the respective merging banks.

(Nov. 7, 1918, ch. 209, § 3, formerly § 2, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 463; renumbered § 3, Sept. 29, 1994, Pub. L. 103-328, title I, § 102(b)(4)(A), 108 Stat. 2351.)

CODIFICATION

Provisions similar to those comprising this section were contained in section 4 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, § 1, 66 Stat. 599 (formerly classified to section 34b of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

§ 215a-1. Interstate consolidations and mergers

(a) In general

A national bank may engage in a consolidation or merger under this subchapter with an out-of-State bank if the consolidation or merger is approved pursuant to section 1831u of this title.

(b) Scope of application

Subsection (a) of this section shall not apply with respect to any consolidation or merger be-

fore June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 1831u(a)(3) of this title.

(c) Definitions

The terms “home State” and “out-of-State bank” have the same meaning as in section 1831u(f) of this title.

(Nov. 7, 1918, ch. 209, § 4, as added Sept. 29, 1994, Pub. L. 103-328, title I, § 102(b)(4)(D), 108 Stat. 2351.)

§ 215b. Definitions

As used in this subchapter, the term—

(1) “State bank” means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, or which is operating under the Code of Law for the District of Columbia (except a national banking association located in the District of Columbia);

(2) “State” means the several States and Territories, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(3) “Comptroller” means the Comptroller of the Currency; and

(4) “Receiving association” means the national banking association into which one or more national banking associations or one or more State banks, located within the same State, merge.

(Nov. 7, 1918, ch. 209, § 5, formerly § 3, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 465; renumbered § 5, Sept. 29, 1994, Pub. L. 103-328, title I, § 102(b)(4)(B), 108 Stat. 2351.)

CODIFICATION

Provisions similar to those comprising this section were contained in section 5 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, § 1, 66 Stat. 601 (formerly classified to section 34c of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

§ 215c. Mergers, consolidations, and other acquisitions authorized

(a) In general

Subject to sections 1815(d)(3) and 1828(c) of this title and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

(b) Expedited approval of acquisitions

(1) In general

Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 1815(d)(3) of this title or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

(2) Extensions of period

The period for approval or disapproval referred to in paragraph (1) may be extended for

an additional 30-day period if the Comptroller of the Currency determines that—

(A) an applicant has not furnished all of the information required to be submitted; or

(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

(c) Rule of construction

No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act¹ or any other law governing the powers of national banks.

(d) “Acquire” defined

For purposes of this section, the term “acquire” means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

(R.S. 5156A, as added Pub. L. 102-242, title V, § 502(b), Dec. 19, 1991, 105 Stat. 2393.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), probably means the National Bank Act, act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§ 21 et seq.) of this title. For complete classification of this Act to the Code see References in Text note set out under section 38 of this title.

CODIFICATION

Section was not enacted as part of act Nov. 7, 1918, ch. 209, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 460, which comprises this subchapter.

SUBCHAPTER XVII—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

§ 216. Purpose

The purpose of this subchapter is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by—

(1) providing final notice of the availability of unclaimed property from closed national banks and closed banks in the District of Columbia;

(2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and

(3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this subchapter.

(Pub. L. 96-221, title VII, § 731, as added Pub. L. 97-320, title IV, § 408, Oct. 15, 1982, 96 Stat. 1513.)

§ 216a. Definitions

For purposes of this subchapter—

(1) the term “Comptroller” means the Comptroller of the Currency;

(2) the term “unclaimed property” means any articles, items, assets, other property, or

¹ See References in Text note below.

the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks or closed banks in the District of Columbia, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and

(3) the term “claimant” means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

(Pub. L. 96-221, title VII, §732, as added Pub. L. 97-320, title IV, §408, Oct. 15, 1982, 96 Stat. 1513.)

§ 216b. Disposition of unclaimed property

(a) Limitations for filing claims; publication of notice in Federal Register; contents of notice; disclosure of descriptive information; inspection of specific property

(1) Within twelve months following October 15, 1982, the Comptroller shall publish formal notice in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred.

(2) Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate.

(3)(A) The Comptroller shall not disclose, by publication, inspection or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section.

(B) Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this subchapter. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

(b) Delivery of property to claimant upon proof of entitlement; determination of validity of claims; recoupment of expenses; liability for losses; insurance requirements

(1) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register.

(2)(A) The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this subchapter.

(B) All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

(c) Vesting of rights, title and interest in unclaimed property in United States; sale, use, destruction or disposition of property; proceeds of sale as miscellaneous receipts

(1) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States.

(2) The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection.

(3) The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

(d) Liability for determination of validity of claims; liability for delivery, sale, etc., of property

The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this subchapter or for any delivery, sale, destruction, or other disposition of unclaimed property.

(e) Court action for determination of ownership, etc., in State or Federal court of competent jurisdiction; de novo nature of action; parties

(1) A court action to determine legal ownership, entitlement, or right to possession may be filed in any State or Federal court of competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof.

(2) Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person.

(3) The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

(f) Jurisdiction of United States Court of Federal Claims of actions against United States, Comptroller, officer, etc.; scope of review of actions of Comptroller; limitations; claims against Comptroller, officer, etc., as claim against United States

(1) The United States Court of Federal Claims shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any de-

termination of a claim or the disposition of any unclaimed property.

(2) The United States Court of Federal Claims may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(3) All claims for which the United States Court of Federal Claims has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this subchapter.

(4) For purposes of section 1491 of title 28, any Claim¹ against the Comptroller, the United States, or any officer, employee, or agent thereof shall be considered a claim against the United States.

(Pub. L. 96-221, title VII, § 733, as added Pub. L. 97-320, title IV, § 408, Oct. 15, 1982, 96 Stat. 1513; amended Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (f)(1) to (3). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 216c. Rules and regulations

The Comptroller may issue rules and regulations necessary or appropriate to carry out this subchapter.

(Pub. L. 96-221, title VII, § 734, as added Pub. L. 97-320, title IV, § 408, Oct. 15, 1982, 96 Stat. 1515.)

§ 216d. Severability

If any provision of this subchapter or the application of such provision to any person or circumstance is held invalid, the remainder of this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 96-221, title VII, § 735, as added Pub. L. 97-320, title IV, § 408, Oct. 15, 1982, 96 Stat. 1515.)

CHAPTER 3—FEDERAL RESERVE SYSTEM

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¹ So in original. Probably should not be capitalized.

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 (2) Second tier.
 (3) Third tier.
 (4) Maximum amounts of penalties for any violation described in paragraph (3).
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 (6) Hearing.
 (7) Disbursement.
 (8) "Violate" defined.
 (9) Regulations.
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521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building.
522. Federal reserve branch bank buildings.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35, 1440, 1465, 1468, 1468b, 1813, 1817, 1831k, 1831r, 2254, 3108 of this title.

SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

CROSS REFERENCES

Emergency limitations and restrictions of business of member banks, see section 95 of this title.

§ 221. Definitions

Wherever the word "bank" is used in this chapter, the word shall be held to include State bank, banking association, and trust company, except where national banks or Federal reserve banks are specifically referred to.

The terms "national bank" and "national banking association" used in this chapter shall be held to be synonymous and interchangeable. The term "member bank" shall be held to mean

any national bank, State bank, or bank or trust company which has become a member of one of the Federal reserve banks. The term “board” shall be held to mean Board of Governors of the Federal Reserve System; the term “district” shall be held to mean Federal reserve district; the term “reserve bank” shall be held to mean Federal reserve bank; the term “the continental United States” means the States of the United States and the District of Columbia.

The terms “bonds and notes of the United States”, “bonds and notes of the Government of the United States”, and “bonds or notes of the United States” used in this chapter shall be held to include certificates of indebtedness and Treasury bills issued under section 3104 of title 31.

(Dec. 23, 1913, ch. 6, §1, 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; June 25, 1959, Pub. L. 86-70, §8(a), 73 Stat. 142; Sept. 13, 1982, Pub. L. 97-258, §2(c), 96 Stat. 1058.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

1982—Pub. L. 97-258 inserted provisions defining “bonds and notes of the United States”, “bonds and notes of the Government of the United States”, and “bonds or notes of the United States”. These provisions are based on acts Sept. 24, 1917, ch. 56, §5(c), 40 Stat. 290; Apr. 4, 1918, ch. 44, §4, 40 Stat. 504; Mar. 3, 1919, ch. 100, §3, 40 Stat. 1311; restated June 17, 1929, ch. 26, 46 Stat. 20 (former 31 U.S.C. 754(c)).

1959—Pub. L. 86-70 inserted definition of “the continental United States”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 221a, 3102, 3105 of this title.

§ 221a. Additional definitions

As used in this chapter—

(a) The terms “banks”, “national bank”, “national banking association”, “member bank”, “board”, “district”, and “reserve bank” shall have the meanings assigned to them in section 221 of this title.

(b) Except where otherwise specifically provided, the term “affiliate” shall include any corporation, business trust, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any

other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of a member bank at the preceding election, or controls in any manner the election of a majority of the directors of a member bank, or for the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees.

(June 16, 1933, ch. 89, §2, 48 Stat. 162; Aug. 23, 1935, ch. 614, title III, §301, 49 Stat. 707; July 1, 1966, Pub. L. 89-485, §13(a), (b), 80 Stat. 242.)

REFERENCES IN TEXT

As used in this chapter, referred to in text, was in the original “As used in this Act and in any provision of law amended by this Act”, meaning act June 16, 1933, ch. 89, 48 Stat. 162, as amended, known as the Banking Act of 1933. For complete classification of this Act to the Code, see References in Text note set out under section 227 of this title and Tables.

AMENDMENTS

1966—Subsec. (b)(4). Pub. L. 89-485, §13(a), added par. (4) which incorporates definitions of “holding company affiliate” contained in cls. (1) and (2) of former subsec. (c) of this section, and substituted “a member bank” for “any one bank” in first two places.

Subsec. (c). Pub. L. 89-485, §13(b), repealed definition of “holding company affiliate”, cls. (1) and (2) thereof now being incorporated in the subsec. (b)(4) definition of “affiliate”, substituting “a member bank” for “any one bank” in first two places and the par. excluding therefrom any corporations stock of which is fully owned by the United States and any organization determined by the Board of Governors of the Federal Reserve System not to be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies.

1935—Subsec. (c). Act Aug. 23, 1935, added last par.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371d, 377, 1464, 1828 of this title; title 26 section 601.

§ 222. Federal reserve districts; membership of national banks

The continental United States, excluding Alaska, shall be divided into not less than eight nor more than twelve districts. Such districts may be readjusted and new districts may from time to time be created by the Board of Governors of the Federal Reserve System, not to exceed twelve in all: *Provided*, That the districts shall be apportioned with due regard to the convenience and customary course of business and shall not necessarily be coterminous with any State or States. Such districts shall be known as Federal Reserve districts and may be designated

by number. When the State of Alaska or Hawaii is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this chapter and shall thereupon be an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and failure to do so shall subject such bank to the penalty provided by section 501a of this title.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; July 7, 1958, Pub. L. 85-508, § 19, 72 Stat. 350; Mar. 18, 1959, Pub. L. 86-3, § 17, 73 Stat. 12.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in text, is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1959—Pub. L. 86-3 required readjustment of districts when the State of Hawaii is admitted to the Union.

1958—Pub. L. 85-508 required readjustment of districts when the State of Alaska is admitted to the Union, and inserted provisions requiring national banks to become members of the Federal Reserve System upon commencing business or within 90 Days after admission into the Union of the State in which they are located.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

RULES OF ORGANIZATION OF BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM; LIST OF FEDERAL RESERVE BANKS AND BRANCHES

26 F.R. 12638, as revised 46 F.R. 1777, 51 F.R. 42935, 54 F.R. 26251, effective June 1, 1989

RULES OF ORGANIZATION

SECTION 1—Basis and Scope

These Rules are issued by the Board of Governors of the Federal Reserve System (the "Board") pursuant to the requirement of section 552 of Title 5 of the United States Code that each agency shall publish in the *Federal Register* a description of its central and field organization.

SECTION 2—Composition and Location

(a) *Governors, chairman, vice chairman.* The Board consists of seven members appointed by the President, by

and with the advice and consent of the Senate, for 14 year terms. The members of the Board are required by law to devote their entire time to the business of the Board. One of them is designated by the President as chairman and one as vice chairman, to serve as such for terms of four years. At meetings, the chairman presides or, in his absence, the vice chairman presides. In the absence of the chairman and vice chairman, the member of the Board present with the longest service acts as chairman. The chairman of the Board, subject to its supervision, is its active executive officer. The Board meets regularly and frequently to consider matters relating to monetary and credit policies, regulatory and supervisory duties with which it has been charged by the Congress, and administrative and other questions arising in the conduct of the work of the Board.

(b) *Location and business hours.* The principal offices of the Board are at 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. The public entrance is at 20th and C Streets, N.W. The Board's regular business hours are from 8:45 a.m. to 5:15 p.m. each weekday except Saturday, but its business hours may be changed from time to time.

SECTION 3—Central Organization

The Board's central organization consists of the members of the Board and the following offices, divisions, and officials:

(a) *Office of Board Members* consists of the members of the Board, and assistants and special assistants to the Board assigned to public affairs and congressional liaison.

(b) *Division of Monetary Affairs*, headed by a director, is responsible for planning and coordinating programs, memoranda, and analyses and presenting decision-making options in areas of monetary and closely related financial policies. Responsibilities are carried out through various staff activities, including preparation of position papers and other documents on monetary policy issues such as open market, discount, and reserve requirement policy; performance of secretariat functions for the Federal Open Market Committee, including administration and record preparation and maintenance; coordination of regulatory and statistical issues closely related to monetary policy, including publication and interpretation of a variety of statistical series on money, reserves, and interest rates; and liaison with the trading desk at the Federal Reserve Bank of New York in connection with open market operations and market developments.

(c) *Office of Staff Director for Federal Reserve Bank Activities* is responsible for overseeing the Division of Federal Reserve Bank Operations, assisting the Board's Committee on Federal Reserve Bank Activities, and coordinating the functions of other Board divisions that relate to Federal Reserve Bank matters. The responsibilities of this office also include all Reserve Bank director matters, coordination of the annual evaluation program for Federal Reserve Banks, the Federal Reserve System's program for emergency preparedness, and representing the Board in activities pertaining to Bank operational matters in meetings with foreign central banks and other United States government agencies.

(d) *Office of Staff Director for Management* is responsible for the planning and coordination of staff operations and organization, resource management, and supervision of the following functions: Board building administration and operations, Board budget and accounting activities, the Automation Policy and Programs Committee, personnel-related activities, equal employment opportunity, and contingency planning operations.

(e) *Office of the Executive Director for Information Resource Management* is responsible for overseeing the Division of Hardware and Software Systems and the Division of Applications Development and Statistical Services. The office has overall responsibility for advanced planning and conceptual application of technology, for automation policy, and for coordination of automation

projects with other components of the Federal Reserve System.

(f) *Office of the Secretary*, headed by the Board's secretary, coordinates and handles items requiring Board action, including actions under delegated authority; prepares agendas for Board meetings; implements actions taken at Board meetings; prepares, circulates, and indexes minutes of the Board; has responsibility for the Board's regulatory planning and review; publishes the *Federal Reserve Regulatory Service* and related manuals; provides liaison at the staff level with the Federal Advisory Council, the Thrift Institutions Advisory Council, and *ad hoc* groups of the Reserve Banks; makes arrangements for individuals and groups visiting the Board; maintains custody of and provides reference service to official records of the Board; handles correspondence and public requests for records; secures visas for official travel of System personnel; and provides relief secretarial and stenographic services.

(g) *Legal Division*, headed by the Board's general counsel, advises the Board in carrying out its statutory and regulatory responsibilities by the preparation of Board decisions, regulations, rules, instructions, and legal interpretations of statutes and regulations, administered by the Board; represents the Board in civil litigation and administrative proceedings; assists other divisions in fulfilling their responsibilities in such areas as contracting, fiscal agency activities, Federal Reserve Bank matters, labor law, personnel, and supervisory enforcement matters; and prepares testimony or comments on proposed legislation.

(h) *Division of Research and Statistics*, headed by a director, provides the Board and the Federal Open Market Committee with the economic analysis and information needed for current operations, for the formulation of monetary and credit policies, and for the exercise of responsibilities with regard to bank regulation; prepares, publishes, and interprets a variety of statistical series in the financial and nonfinancial fields; conducts basic research relating to the effects of monetary policy on economic activity and prices and to the effects of financial regulation on the structure and functioning of financial markets.

(i) *Division of International Finance*, headed by a director, provides the Board, the Federal Open Market Committee, and other System officials with assessments of current international economic and financial developments. Staff members analyze major economic and financial developments abroad, issues connected with exchange market developments, international financial flows and their implications, the international monetary and financial systems and their evolution, and the balance-of-payments adjustment process. The division provides economic data and analyses for public release. It also works with the Chairman and other Board members in their roles as members of various interagency bodies dealing with international economic policy issues.

(j) *Division of Federal Reserve Bank Operations*, headed by a director, advises and assists the Board in its oversight of Reserve Bank operations. The division is responsible to the Board on matters concerning payments system policy, the price and level of Federal Reserve Bank services (check collection, funds transfer, automated clearinghouse, net settlement, securities, and coin and currency), and improvements to the efficiency of the payments mechanism. It also maintains liaison with interested parties on payments matters.

The division reviews and appraises Reserve Bank communications and automation plans and proposals, as well as Reserve Bank building plans. It reviews proposed Reserve Bank budgets; administers expense control and budgeting system for collection and analysis of budget and expense data; prescribes accounting principles, standards, and related requirements to be followed by the Reserve Banks; and provides certain centralized financial accounting services.

The division conducts an annual financial examination of each Reserve Bank. It also conducts operational reviews of various Reserve Bank functions, including:

check collection, electronic payments, coin and currency, securities, fiscal agency, open market, protection, data processing, communications, accounting, and audit.

The division maintains liaison with the Treasury and other government agencies to facilitate the System's role as fiscal agent to the United States. It also coordinates the printing and distribution of Federal Reserve notes and is jointly responsible with the Bureau of the Mint for the production and distribution of coin.

(k) *Division of Banking Supervision and Regulation*, headed by a director, coordinates the bank supervisory functions of the System and evaluates the examination procedures of the Reserve Banks; exercises general supervision of the commercial and fiduciary activities of state member banks; administers the supervisory features of laws and regulations relating to affiliates and bank holding companies; supervises various foreign banking activities of member banks and foreign banking and financing corporations; administers the public disclosure provisions of the Securities Exchange Act of 1934, as amended, in their application to state member banks, and the provisions of the act giving responsibility to the Board for regulating security credit transactions; administers the pertinent provisions of the Financial Institutions Supervisory Act of 1966, and amendments contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978, in their application to state member banks, bank holding companies, nonbank subsidiaries, Edge Act corporations, foreign banks with domestic operations, and persons related to such institutions; monitors the Currency and Foreign Transactions Reporting Act in its application to state member banks and Edge Act corporations; processes and presents to the Board applications filed pursuant to the Bank Holding Company Act of 1956, as amended, and the Bank Merger Act and various other applications submitted under the provisions of the Federal Reserve Act or related statutes; and advises the Board regarding developments in banking and bank supervisory policies and procedures.

(l) *Division of Consumer and Community Affairs*, headed by a director, implements consumer affairs legislation for which the Board has responsibility. Its functions include drafting regulations and interpretations pursuant to the Truth in Lending Act, the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Fair Credit Billing Act, the Consumer Leasing Act, the Electronic Funds Transfer Act, and the Federal Trade Commission Improvements Act, for financial institutions and other firms engaged in consumer credit, electronic funds transfer, and leasing activities. The division also administers the Board's consumer complaint handling system and directs and monitors enforcement activities with regard to state member banks. The legislation enforced includes the acts mentioned as well as the Company [Community] Reinvestment, Fair Credit Reporting, Fair Debt Collection Practices, Fair Housing, Flood Disaster Protection, and Real Estate Settlement Procedures Acts and Regulation Q, Interest on Deposits. The division assists the community affairs activities of the Reserve Banks, which are related to the Federal Reserve's Community Reinvestment Act responsibilities.

(m) *Division of Human Resources Management*, headed by a director, is responsible for the development and implementation of Board personnel policies and programs, and advises and assists the Board and the Reserve Banks on personnel matters pertaining to the Federal Reserve Banks.

(n) *Division of Support Services*, headed by a director, is responsible for duplication and distribution of Board publications, press releases, speeches, and testimony; space management; printing, contracting, and supply services; communications; food service management; operation and maintenance of electrical and mechanical systems; building and grounds maintenance; and personnel and building security.

(o) *Office of the Controller*, headed by the Board's controller, assists the Board's divisions and the Federal Fi-

financial Institutions Examination Council in establishing and operating within their organizational structures, in managing their resources, and in ensuring the propriety and accountability of resource utilization by: administering the budget functions of planning, formulating, executing, reviewing, and reporting; receiving and disbursing funds; maintaining books of account; developing means to improve operations; conducting organizational analyses; conducting program analyses; providing financial analysis and consultation; reporting results of operations; conducting special studies; maintaining records of organizational and financial transactions; assuring that proper cost/benefit and lease/purchase analyses are a part of major capital investments; and participating in or supporting managerial committees and task forces.

(p) *Division of Hardware and Software Systems*, headed by a director, is responsible for the overall planning, acquisition, implementation, operation, and maintenance of the Board's automation and data communications equipment, environmental operating and data base systems software, data processing and communications security, mainframe linkage to distributed processing, and other hardware and environmental software required at the Board and the Contingency Processing Center (CPC). The division is responsible for providing a climate in which users share responsibility in determining needs and translating these needs into services, and providing effective and efficient improvements in all automation and communication system services to the Board and through the CPC to the Federal Reserve System.

(q) *Division of Applications Development and Statistical Services*, headed by a director, is responsible for the design, development, and implementation of applications software; for the collection, processing, and maintenance of statistical and regulatory data provided by commercial banks, bank holding companies, other financial institutions, and Federal Reserve Banks; and for the provision of technical consulting services relating to automation activities in other Board divisions and offices.

(r) *Office of Inspector General* is an independent office that operates under Pub. L. 100-504 and Board charter. It conducts and supervises audits, operations reviews, and investigations relating to the functions of the Board; recommends and provides leadership and coordination for activities that promote economy, efficiency, and effectiveness within the Board's programs and operations; detects and prevents fraud, waste, and abuse in the Board's programs and operations; and keeps the chairman and Congress fully informed about problems and deficiencies relating to the Board's programs and operations and the necessity for, and progress of, corrective actions.

(s) *Other personnel*. The Board does not employ administrative law judges or hearing officers as regular members of its staff, but, in accordance with applicable provisions of law and in individual cases as the need may arise, the Board obtains and utilizes administrative law judges and hearing officers, whose functions in such capacity are appropriately separated, as required by law, from investigative and prosecuting functions of the staff.

SECTION 4—Field Organization

(a) *Federal Reserve Banks*. The United States is divided into 12 Federal Reserve Districts. In one city in each Federal Reserve District there is located a Federal Reserve Bank; in 10 of the Districts there are one or more branches of the Federal Reserve Bank in other cities; and in some Districts there are offices or facilities with specialized functions. Each Federal Reserve Bank is a separate legal entity, created pursuant to the Federal Reserve Act and operating under the general supervision of the Board. The locations of the 12 Federal Reserve Banks and the 25 branches and the boundaries of the Federal Reserve district and branch territories are shown in the appendix. Each Federal Reserve Bank, in addition to its other duties, carries out local

functions for the Board pursuant to instructions of the Board, and in many matters acts as the Board's field representative in the Bank's District. Each Reserve Bank assists in the regional administration of the Board's regulations and policies, keeps the Board informed of local conditions, and recommends such actions as it thinks appropriate in particular cases. In general, persons concerned with Federal Reserve matters should deal in the first instance with the Federal Reserve Bank of the appropriate District or a branch thereof, and the Board requests all persons to follow this procedure.

(b) *Federal Reserve agents*. Each Federal Reserve Bank has nine directors, three of whom are appointed by the Board. One of the directors appointed by the Board is designated by the Board as chairman of the Board of Directors of the Bank and as Federal Reserve agent. He acts as the Board's official representative and maintains a local office of the Board on the premises of the Federal Reserve bank.

SECTION 5—Delegations of Authority

The Board does not delegate any of its functions relating to rule-making or pertaining principally to monetary or credit policies or involving any questions of general policy. However, the Board delegates certain of its supervisory and other functions prescribed by statute or regulations of the Board to its members or employees or to the Federal Reserve Banks as provided in its Rules Regarding Delegation of Authority (12 CFR 265). In addition, the Board delegates to the Federal Reserve Banks certain functions not provided for by statute or regulations of the Board, including authority to extend the time within which certain transactions may be consummated.

APPENDIX

Federal Reserve Banks

BOSTON*

600 Atlantic Avenue, Boston, Massachusetts 02106

NEW YORK*

33 Liberty Street (Federal Reserve P.O. Station), New York, New York 10045

Buffalo Branch

160 Delaware Avenue, Buffalo, New York 14202 (P.O. Box 961, Buffalo, New York 14240)

PHILADELPHIA

Ten Independence Mall, Philadelphia, Pennsylvania 19106 (P.O. Box 66, Philadelphia, Pennsylvania 19105)

CLEVELAND*

1455 East Sixth Street (P.O. Box 6387), Cleveland, Ohio 44101

Cincinnati Branch

150 East Fourth Street (P.O. Box 999), Cincinnati, Ohio 45201

Pittsburgh Branch

717 Grant Street (P.O. Box 867), Pittsburgh, Pennsylvania 15230

RICHMOND*

701 East Byrd Street, Richmond, Virginia 23219 (P.O. Box 27622, Richmond, Virginia 23261)

Baltimore Branch

502 S. Sharp Street, Baltimore, Maryland 21201 (P.O. Box 1378, Baltimore, Maryland 21203)

Charlotte Branch

401 South Tryon Street (P.O. Box 30248), Charlotte, North Carolina 28230

Culpeper Communications and Records Center

P.O. Drawer 20, Culpeper, Virginia 22701

ATLANTA

104 Marietta Street, N.W., Atlanta, Georgia 30303 (P.O. Box 1731, Atlanta, Georgia 30301-1731)

Birmingham Branch

*Additional offices of these Banks are located at Lewiston, Maine 04240; Windsor Locks, Connecticut 06096; Cranford, New Jersey 07016; Jericho, New York 11753; Utica at Oriskany, New York 13424; Columbus, Ohio 43216; Columbia, South Carolina 29210; Charleston, West Virginia 25328; Des Moines, Iowa 50306; Indianapolis, Indiana 46204; and Milwaukee, Wisconsin 53202.

1801 Fifth Avenue, North, Birmingham, Alabama 35202 (P.O. Box C-10447, Birmingham, Alabama 35283)
 Jacksonville Branch
 515 Julia Street, Jacksonville, Florida 32231
 Miami Branch
 9100 Northwest 36th Street, Miami, Florida 33178 (P.O. Box 520847, Miami, Florida 33152)
 Nashville Branch
 301 Eighth Avenue, North, Nashville, Tennessee 37203
 New Orleans Branch
 525 St. Charles Avenue (P.O. Box 61630), New Orleans, Louisiana 70161
 CHICAGO*
 230 South LaSalle Street (P.O. Box 834), Chicago, Illinois 60690
 Detroit Branch
 160 Fort Street, West (P.O. Box 1059), Detroit, Michigan 48231
 ST. LOUIS
 411 Locust Street, St. Louis, Missouri 63102 (P.O. Box 442, St. Louis, Missouri 63166)
 Little Rock Branch
 325 West Capitol Avenue (P.O. Box 1261), Little Rock, Arkansas 72203
 Louisville Branch
 410 South Fifth Street, Louisville, Kentucky 40201 (P.O. Box 32710, Louisville, Kentucky 40232)
 Memphis Branch
 200 North Main Street, Memphis, Tennessee 38103 (P.O. Box 407, Memphis, Tennessee 38101)
 MINNEAPOLIS
 250 Marquette Avenue, Minneapolis, Minnesota 55480
 Helena Branch
 400 North Park Avenue, Helena, Montana 59601
 KANSAS CITY
 925 Grand Avenue, Kansas City, Missouri 64198
 Denver Branch
 1020 16th Street, Denver, Colorado 80202 (Terminal Annex-P.O. Box 5228, Denver, Colorado 80217)
 Oklahoma City Branch
 226 Dean A. McGee Avenue (P.O. Box 25129), Oklahoma City, Oklahoma 73125
 Omaha Branch
 2201 Farnam Street, Omaha, Nebraska 68102 (P.O. Box 3958, Omaha, Nebraska 68103)
 DALLAS
 400 South Akard Street (Station K), Dallas, Texas 75222
 El Paso Branch
 301 East Main Street (P.O. Box 100), El Paso, Texas 79999
 Houston Branch
 1701 San Jacinto Street, Houston, Texas 77002 (P.O. Box 2578, Houston, Texas 77252)
 San Antonio Branch
 126 East Nueva Street, San Antonio, Texas 78204 (P.O. Box 1471, San Antonio, Texas 78295)
 SAN FRANCISCO
 101 Market Street, San Francisco, California 94105 (P.O. Box 7702, San Francisco, California 94120)
 Los Angeles Branch
 950 South Grand Avenue, Los Angeles, California 90015 (Terminal Annex-P.O. Box 2077, Los Angeles, California 90051)
 Portland Branch
 915 S.W. Stark Street, Portland, Oregon 97025 (P.O. Box 3436, Portland, Oregon 97208)
 Salt Lake City Branch
 120 South State Street, Salt Lake City, Utah 84111 (P.O. Box 30780, Salt Lake City, Utah 84125)
 Seattle Branch
 1015 Second Avenue, Seattle, Washington 98104 (P.O. Box 3567, Seattle, Washington 98124)

RULES OF PROCEDURE

The rules of procedure of the Board of Governors of the Federal Reserve System are published in the Code of Federal Regulations, Part 262 of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 223. Number of Federal reserve cities in district

A Federal reserve district shall contain only one Federal reserve city.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 224. Status of reserve cities under former statutes

The organization of reserve districts and Federal reserve cities shall not be construed as changing the present status of reserve cities except insofar as this chapter changes the amount of reserves that may be carried with approved reserve agents located therein.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; July 28, 1959, Pub. L. 86-114, § 3(b)(5), 73 Stat. 264.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

1959—Pub. L. 86-114 struck out “and central reserve cities” after “reserve cities”.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a Central Reserve and Reserve Cities note under section 141 of this title.

SIMILAR PROVISIONS

Provisions relating to reserve cities and central reserve cities were contained in R.S. §§5191, 5192, and act Mar. 3, 1887, ch. 378, §§1, 2, 24 Stat. 559, 560.

CROSS REFERENCES

Reserve cities, see sections 141 and 142 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 225. Federal reserve banks; title

A Federal reserve bank shall include in its title the name of the city in which it is situated, as “Federal Reserve Bank of Chicago.”

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 252.)

CROSS REFERENCES

Designation of cities, see section 141 of this title.

Jurisdiction of actions by or against Federal reserve banks, see section 632 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 225a. Maintenance of long run growth of monetary and credit aggregates; annual reports to Congress; transmittal to Congressional Committees; consultations with Committees; report of Committee; changing conditions affecting achievement of objectives and plans; explanation for deviations from objectives and plans

The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. In furtherance of the purposes of the Full Employment and Balanced Growth Act of 1978 [15 U.S.C. 3101 et seq.], the Board of Governors of the Federal Reserve System shall transmit to the Congress, not later than February 20 and July 20 of each year, independent written reports setting forth (1) a review and analysis of recent developments affecting economic trends in the Nation, including an analysis of the impact of the exchange rate of the dollar on those trends; (2) the objectives and plans of the Board of Governors and the Federal Open Market Committee with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year during which the report is transmitted, taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices; and (3) the relationship of the aforesaid objectives and plans to the short-term goals set forth in the most recent Economic Report of the President pursuant to section 1022(a)(2)(A) of title 15 and to any short-term goals approved by the Congress. In addition, as a part of its report on July 20 of each year, the Board of Governors shall include a statement of its objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year following the year in which the report is submitted. The reports required under the two preceding sentences shall be transmitted to the Congress and shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs. The Board shall consult with each such Committee on the reports and, thereafter, each such Committee shall submit to its respective body a report containing its views and recommendations with respect to the Federal Reserve's intended policies. Nothing in this chapter shall be interpreted to require that the objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates disclosed in the reports submitted under this section be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions: *Provided*, That in the subsequent consultations with, and reports to, the aforesaid Committees of the Congress pursuant to this section, the Board of Governors shall

include an explanation of the reasons for any revisions to or deviations from such objectives and plans.

(Dec. 23, 1913, ch. 6, §2A, as added Nov. 16, 1977, Pub. L. 95-188, title II, §202, 91 Stat. 1387; amended Oct. 27, 1978, Pub. L. 95-523, title I, §108(a), 92 Stat. 1897; Aug. 23, 1988, Pub. L. 100-418, title III, §3005(c), 102 Stat. 1375.)

REFERENCES IN TEXT

The Full Employment and Balanced Growth Act of 1978, referred to in text, is Pub. L. 95-523, Oct. 27, 1978, 92 Stat. 1887, which is classified principally to chapter 58 (§3101 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 15 and Tables.

This chapter, referred to in text, was in the original "this Act", meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Another section 202 of Pub. L. 95-188 amended section 302 of this title.

AMENDMENTS

1988—Pub. L. 100-418 inserted ", including an analysis of the impact of the exchange rate of the dollar on those trends" after "the Nation" in cl. (1).

1978—Pub. L. 95-523 substituted provisions relating to the annual independent written reports of the Board of Governors to the Congress for provisions relating to the consultations of the Board of Governors with Congress at semi-annual hearings, substituted "the objectives and plans with respect to the ranges" for "such ranges", inserted "of the monetary and credit aggregates disclosed in the reports submitted under this section" after "growth or diminution", and inserted provision respecting the inclusion of an explanation of reasons for revisions or deviations in subsequent consultations and reports.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives changed to Committee on Banking and Financial Services of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 108(b) of Pub. L. 95-523 provided that: "The amendment made by subsection (a) [amending this section] takes effect on January 1, 1979."

§ 226. "Federal Reserve Act"

The short title of the Act of December 23, 1913, ch. 6, 38 Stat. 251, shall be the "Federal Reserve Act."

(Dec. 23, 1913, ch. 6, §1, 38 Stat. 251.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in text, is classified to sections 1, 35, 59, 64, 82, 90, 101a, 104, 121, 141, 142, 221, 222 to 226, 241 to 247a, 248(a) to (m), (o), 261 to 263, 281 to 283, 285 to 290, 301 to 308, 321 to 329, 330 to 336, 337, 338, 341 to 347c, 348 to 352, 352a, 353 to 360, 371 to 372, 374 to 376, 391 to 393, 411 to 416, 418 to 421, 441 to 444, 446 to 448, 461, 462, 462a-1, 462b, 462c, 463 to 467, 481 to 486, 501a to 503, 521, 522, 531, 601 to 604, 611 to 632 of this title, and section 409 of former Title 31, Money and Finance. See, also, section 19 of Title 15, Commerce and Trade; sections 217 to 219, 655, 1005, 1014, 1906 and 1909 of Title 18,

Crimes and Criminal Procedure, and section 725(b) of former Title 31, Money and Finance. For complete classification of this Act to the Code, see Tables.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-491, §1, Oct. 24, 1992, 106 Stat. 3144, provided that: "This Act [amending section 522 of this title] may be cited as the 'Federal Reserve Bank Branch Modernization Act'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-86, §1(a), Aug. 10, 1987, 101 Stat. 552, provided that: "This Act [enacting sections 371c-1, 1439-1, 1441, 1442a, 1467, 1467a, 1730h, 1730i, 1772b, 1772c, 3806, and 4001 to 4010 of this title and section 3334 of Title 31, Money and Finance, amending sections 24, 248a, 481, 619, 1430, 1436, 1464, 1467, 1725 to 1727, 1729 to 1730a, 1730h, 1757, 1761a, 1761b, 1764, 1766, 1767, 1785 to 1788, 1813, 1817, 1821, 1823, 1828, 1831d, 1832, 1841 to 1843, 1846, 1849, and 3106 of this title, sections 905 and 906 of Title 2, The Congress, sections 45, 46, and 57a of Title 15, Commerce and Trade, and sections 3328, 3702, 3712, 9101, and 9105 of Title 31, providing for future repeal of sections 1442a, 1467a, and 1730i of this title, enacting provisions set out as notes under sections 226, 248a, 619, 1437, 1441, 1464, 1467, 1467a, 1730, 1730a, 1751, 1811, 1841, and 4001 of this title and section 3328 of Title 31, and amending provisions set out as a note under section 1729 of this title] may be cited as the 'Competitive Equality Banking Act of 1987'."

Pub. L. 100-86, title I, §100, Aug. 10, 1987, 101 Stat. 554, provided that: "This title [enacting section 371c-1 of this title, amending sections 24, 619, 1430, 1730, 1730a, 1813, 1828, 1831d, 1832, 1841 to 1843, and 1846 of this title, and enacting provisions set out as notes under sections 226, 619, 1730a, and 1841 of this title] may be cited as the 'Competitive Equality Amendments of 1987'."

Pub. L. 100-86, title III, §301, Aug. 10, 1987, 101 Stat. 585, provided that: "This title [enacting section 1441 of this title, amending sections 1430, 1436, 1725, 1727, and 1730 of this title and section 9101 of Title 31, Money and Finance, and enacting provisions set out as a note under section 1730 of this title] may be cited as the 'Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987'."

Pub. L. 100-86, title IV, §401, Aug. 10, 1987, 101 Stat. 604, provided that: "This title [enacting sections 1442a, 1467, 1467a, 1730h, and 1730i of this title, amending sections 1464, 1467, 1729 to 1730a, and 1730h of this title, and section 9105 of Title 31, Money and Finance, providing for future repeal of sections 1442a, 1467a, and 1730i of this title, and enacting provisions set out as notes under sections 1437, 1441, 1467, and 1467a of this title] may be cited as the 'Thrift Industry Recovery Act'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-320, §1, Oct. 15, 1982, 96 Stat. 1469, provided that: "This Act [enacting sections 216 to 216d, 1701j-3, 1795j, 1866, 1867, 3208, and 3801 to 3805 of this title and section 1099 of Title 20, Education, amending sections 22, 24, 27, 29, 30, 84, 93, 94, 95, 371, 371c, 375a, 375b, 461, 484, 504, 505, 1425a, 1426, 1428a, 1430, 1431, 1436, 1437, 1462, 1464, 1718, 1719, 1725, 1726, 1727, 1728, 1729, 1730, 1730a, 1752, 1752a, 1753, 1755, 1757, 1760, 1761, 1761a, 1761b, 1761c, 1763, 1764, 1766, 1770, 1771, 1782, 1783, 1785, 1786, 1795f, 1813, 1814, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1831c, 1832, 1841, 1842, 1843, 1847, 1861, 1862, 1863, 1864, 1865, 1972, 3106, 3204, 3305, 3412, 3414, and 3503 of this title, section 109 of Title 11, Bankruptcy, sections 1602 and 1603 of Title 15, Commerce and Trade, and sections 8103 and 8105 of Title 42, The Public Health and Welfare, repealing section 82 of this title and provisions set out as a note under section 461 of this title, and enacting provisions set out as notes under sections 84, 226, 371, 371c, 1461, 1464, 1811, 1817, 1823, 3503, and 3801 of this title and sections 1602 and 1603 of Title 15 and amending provisions set out as notes under sections 92 and 191 of this title] may be cited as the 'Garn-St Germain Depository Institutions Act of 1982'."

Pub. L. 97-320, title IV, §410(a), Oct. 15, 1982, 96 Stat. 1515, provided that: "This section [amending sections 371c, 375b, 1820, 1828 and 1972 of this title, and enacting provisions set out as a note under section 371c of this title] may be cited as the 'Banking Affiliates Act of 1982'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-221, §1, Mar. 31, 1980, 94 Stat. 132, provided that: "This Act [enacting sections 4a, 86a, 93a, 248a, 1730g, 1735f-7a, 1831d, and 3501 to 3524 of this title, and section 1646 of Title 15, Commerce and Trade, amending sections 24, 27, 29, 51b, 51b-1, 72, 85, 92, 95, 214a, 248, 342, 347b, 355, 360, 371a, 412, 461, 463, 481, 1425a, 1425b, 1431, 1464, 1724, 1726, 1728, 1752, 1757, 1763, 1785, 1787, 1795, to 1795i, 1813, 1817, 1821, 1828, 1832, 1842, and 1843 of this title, and sections 57a, 687, 1602 to 1607, 1610, 1612, 1613, 1631, 1632, 1635, 1637, 1638, 1640, 1641, 1643, 1663, 1664, 1665a, 1666, 1666d, 1667d, and 1691f of Title 15, repealing sections 86a, 371b-1, 1730e, and 1831a of this title, and sections 1614, 1636, and 1639 of Title 15, enacting provisions set out as notes under sections 27, 85, 86a, 191, 226, 248, 355, 371a, 1425a, 1724, 1730g, 1735f-7, 1735f-7a, 1787, 1813, 1817, 3101, 3501, and 3521 of this title, and sections 1601, 1602, and 1607 of Title 15, and repealing provisions set out as notes under sections 85, 86a, 371b-1, and 1831a of this title] may be cited as the 'Depository Institutions Deregulation and Monetary Control Act of 1980'."

Pub. L. 96-221, title I, §101, Mar. 31, 1980, 94 Stat. 132, provided that: "This title [enacting section 248a of this title, amending sections 248, 342, 347b, 355, 360, 412, 461, 463, and 1425a of this title and enacting provisions set out as notes under sections 248 and 355 of this title] may be cited as the 'Monetary Control Act of 1980'."

Pub. L. 96-221, title III, §301, Mar. 31, 1980, 94 Stat. 145, provided that: "This title [amending sections 371a, 1431, 1464, 1724, 1728, 1752, 1757, 1763, 1785, 1787, 1795 to 1795i, 1813, 1817, 1821, 1828, and 1832 of this title and enacting provisions set out as notes under sections 371a, 1724, 1787, 1813, and 1817 of this title] may be cited as the 'Consumer Checking Account Equity Act of 1980'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-630, §1, Nov. 10, 1978, 92 Stat. 3641, provided: "That this Act [enacting sections 375b, 504, 505, 635a-1 to 635a-3, 1795 to 1795i, 1831c, 3106a, 3201 to 3207, 3301 to 3308, and 3401 to 3422 of this title, sections 1693 to 1693r of Title 15, Commerce and Trade, and section 2153e-1 of Title 42, The Public Health and Welfare, amending sections 27, 93, 375a, 412, 635, 635e to 635g, 1451, 1462, 1464, 1715z-10, 1726, 1728 to 1730a, 1752 to 1756, 1757 to 1759, 1761 to 1763, 1766, 1767, 1771, 1772a, 1781 to 1789, 1795b to 1795g, 1813, 1817 to 1821, 1828, 1832, 1843, 1844, 1847, 1865, 1972, and 2902 of this title, sections 5108, 5314, and 5315 of Title 5, Government Organization and Employees, sections 709 and 1114 of Title 18, Crimes and Criminal Procedure, and sections 67 and 856 of former Title 31, Money and Finance, enacting provisions set out as notes under sections 27, 93, 375b, 461, 601, 635, 1451, 1728, 1730, 1751, 1752, 1795, 1817, 1832, 3201, 3301, 3401, and 3415 of this title, and sections 1601 and 1693 of Title 15; and amending provisions set out as notes under sections 226 and 461 of this title and section 1666f of Title 15] may be cited as the 'Financial Institutions Regulatory and Interest Rate Control Act of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-188, title II, §201, Nov. 16, 1977, 91 Stat. 1387, provided that: "This title [enacting section 225a of this title, amending sections 242 and 302 of this title and section 208 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as a note under section 242 of this title] may be cited as the 'Federal Reserve Reform Act of 1977'."

SHORT TITLE OF 1932 AMENDMENT

Act Feb. 27, 1932, ch. 58, 47 Stat. 56, which enacted sections 347a and 347b of this title, and amended section 412 of this title, is popularly known as the Glass-Steagall Act, 1932.

SEPARABILITY; RIGHT TO AMEND, ALTER OR REPEAL

Pub. L. 100-86, title XII, §1205, Aug. 10, 1987, 101 Stat. 663, provided that: "If any provision of this Act [see Short Title of 1987 Amendment note above] or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

Sections 30 and 31, formerly 29 and 30, respectively, of act Dec. 23, 1913, as renumbered by act Nov. 10, 1978, Pub. L. 95-630, title I, §101, 92 Stat. 3641, provided:

"SEC. 30. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

"SEC. 31. The right to amend, alter, or repeal this Act is hereby expressly reserved."

§ 227. "Banking Act of 1933"

The short title of the Act of June 16, 1933, ch. 89, 48 Stat. 162, shall be the "Banking Act of 1933."

(June 16, 1933, ch. 89, §1, 48 Stat. 162.)

REFERENCES IN TEXT

The Banking Act of 1933, also known as the Glass-Steagall Act, 1933, referred to in text, is classified to sections 24, 33, 34a, 36, 51, 52, 61, 64a, 71a, 77, 78, 84, 85, 161, 197a, 221a, 227, 242, 244, 248, 289, 301, 304, 321, 329, 333 to 338, 347, 348a, 371a, 371b, 371c, 371d, 374a, 375a, 377, 378, 481, and 632 of this title. For complete classification of this Act to the Code, see Tables.

RIGHT TO AMEND, ALTER OR REPEAL; SEPARABILITY

Section 34 of act June 16, 1933, provided: "The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby".

§ 228. "Banking Act of 1935"

The act of August 23, 1935, ch. 614, 49 Stat. 684, may be cited as the "Banking Act of 1935."

(Aug. 23, 1935, ch. 614, §1, 49 Stat. 684.)

REFERENCES IN TEXT

The Banking Act of 1935, referred to in text, is classified to sections 2, 24, 33 to 34c, 35, 36, 51, 51a, 51b-1, 52, 59 to 61, 64a, 71a, 78, 84, 85, 170, 181, 192, 221a, 228, 241, 242, 244, 247a, 248, 263, 287, 288, 321, 324, 336, 341, 343, 347b, 352a, 355, 357, 371, 371a, 371b, 371c, 375a, 377, 378, 461, 462a-1, 462b, 465, 481, 482, 486, 619, 1702, 1703, 1709, and 1713 of this title; section 101 of Title 11, Bankruptcy; section 19 of Title 15, Commerce and Trade. See, also, sections 217, 218, 334, 655, 656, 709, 1005, 1906, 1909, and 2113 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code see Tables.

SEPARABILITY

Section 346 of act Aug. 23, 1935, provided: "If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons and circumstances, shall not be affected thereby."

SUBCHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

§ 241. Creation; membership; compensation and expenses

The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after August 23, 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. The members of the Board shall devote their entire time to the business of the Board and shall each receive basic compensation at the rate of \$16,000 per annum, payable monthly, together with actual necessary traveling expenses.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, title II, §203(b), 49 Stat. 704.)

CODIFICATION

Section is comprised of first par. of section 10 of act Dec. 23, 1913. Pars. 2-7 and 8 of section 10; par. 9 of section 10, as added June 3, 1922, ch. 205, 42 Stat. 621; and par. 10 of section 10, as added Aug. 23, 1935, ch. 614, §203(d), 49 Stat. 705, are classified to sections 242 to 247, 1, 522, and 247a, respectively, of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, §203(b), increased the appointive membership from six to seven, terminated the membership of the Secretary of the Treasury and the Comptroller of the Currency, raised the tenure from twelve to fourteen years and increased the annual salary from \$12,000 to \$15,000.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, provided that: "Hereafter the Federal Reserve Board shall be known as the 'Board of Governors of the Federal Reserve System,' and the governor and the vice governor of the Federal Reserve Board shall be known as the 'chairman' and the 'vice chairman,' respectively, of the Board of Governors of the Federal Reserve System."

REPEALS

Act Oct. 15, 1949, ch. 695, §4, 63 Stat. 880, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 655.

COMPENSATION OF BOARD OF GOVERNORS

Annual basic compensation of Chairman and Members of Board of Governors, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

§ 242. Ineligibility to hold office in member banks; qualifications and terms of office of members; chairman and vice chairman; oath of office

The members of the Board shall be ineligible during the time they are in office and for two

years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years. The Chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after August 23, 1935, shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; June 16, 1933, ch. 89, § 6(a), 48 Stat. 166; Aug. 23, 1935, ch. 614, title II, § 203(b), 49 Stat. 704; Nov. 16, 1977, Pub. L. 95-188, title II, § 204(a), 91 Stat. 1388.)

CODIFICATION

Section is comprised of second par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see note set out under section 241 of this title.

AMENDMENTS

1977—Pub. L. 95-188 substituted in third sentence “one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years” for “one shall be designated by the President as chairman and one as vice chairman of the Board, to serve as such for a term of four years”.

1935—Act Aug. 23, 1935, § 203(b), extended term of appointive members from twelve to fourteen years, and inserted provisions for continuance in office until successor qualified and against reappointment.

1933—Act June 16, 1933, extended term of appointive members from ten to twelve years.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Section 204(b) of Pub. L. 95-188 provided that: “The amendment made by subsection (a) [amending this sec-

tion] takes effect on January 1, 1979, and applies to individuals who are designated by the President on or after such date to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System.”

REPEALS

Act Mar. 3, 1919, ch. 101, § 2, 40 Stat. 1315, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

COMPENSATION OF CHAIRMAN OF BOARD

Annual basic compensation of Chairman of Board of Governors, see section 5313 of Title 5, Government Organization and Employees.

§ 243. Assessments upon Federal reserve banks to pay expenses

The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgement alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After approving such plans, estimates, and specifications as it shall have caused to be prepared, the Board may, notwithstanding any other provision of law, cause to be constructed on the site so acquired by it a building suitable and adequate in its judgement for its purposes and proceed to take all such steps as it may deem necessary or appropriate in connection with the construction, equipment, and furnishing of such building. The Board may maintain, enlarge, or remodel any building so acquired or constructed and shall have sole control of such building and space therein.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; June 19, 1934, ch. 653, § 4, 48 Stat. 1108; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of third par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see note set out under section 241 of this title.

AMENDMENTS

1934—Act June 19, 1934, inserted provisions after “the preceding half year” in first sentence and inserted second and third sentences.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 244. Principal offices of Board; chairman of Board; obligations and expenses; qualifications of members; vacancies

The principal offices of the Board shall be in the District of Columbia. At meetings of the

Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the seven members of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; June 16, 1933, ch. 89, § 6(b), 48 Stat. 167; Aug. 23, 1935, ch. 614, title II, § 203(a)–(c), 49 Stat. 704, 705.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act, specific amendments thereof”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of fourth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

Word “seven” was substituted for “six” in last sentence on authority of section 203(b) of act Aug. 23, 1935, which increased membership of the Board of Governors.

AMENDMENTS

1935—Act Aug. 23, 1935, § 203(c), substituted second and third sentences for former related provisions.

1933—Act June 16, 1933, fixed the principal offices of the Board, made the Secretary of the Treasury chairman, provided for chairman pro tempore, and referred to disbursements, obligations, salaries and leaves.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 245. Vacancies during recess of Senate

The President shall have power to fill all vacancies that may happen on the Board of Gov-

ernors of the Federal Reserve System during the recess of the Senate by granting commissions which shall expire with the next session of the Senate.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, title II, § 203(a), 49, Stat. 704.)

CODIFICATION

Section is comprised of fifth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 246. Powers of Secretary of Treasury as affected by chapter

Nothing in this chapter contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this chapter in the Board of Governors of the Federal Reserve System or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of sixth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 247. Reports to Congress

The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress.

(Dec. 23, 1913, ch. 6, § 10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of seventh par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

MEMBERSHIP OF INTERNATIONAL BANKS IN FEDERAL RESERVE SYSTEM; REPORT TO CONGRESS

Pub. L. 95-369, §3(g), Sept. 17, 1978, 92 Stat. 610, provided that the Board report to Congress not later than 270 days after Sept. 17, 1978 recommendations with respect to permitting corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act to become members of Federal Reserve Banks.

EFFECT OF INTERNATIONAL BANKING ACT OF 1978 ON INTERNATIONAL BANKS; REPORT TO CONGRESS

Pub. L. 95-369, §3(h), Sept. 17, 1978, 92 Stat. 610, provided that: "As part of its annual report pursuant to section 10 of the Federal Reserve Act [this section], the Board shall include its assessment of the effects of the amendments made by this Act [see Short Title note set out under section 3101 of this title] on the capitalization and activities of corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act [sections 601 to 604 and 611 to 631 of this title], and on commercial banks and the banking system."

§ 247a. Records of action on policy relating to open-market operation and policies determined generally; inclusion in report to Congress

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this section.

(Dec. 23, 1913, ch. 6, §10 (par.), as added Aug. 23, 1935, ch. 614, title II, §203(d), 49 Stat. 705.)

CODIFICATION

Section is comprised of tenth par. of section 10 of act Dec. 23, 1913, as added Aug. 23, 1935. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

§ 248. Enumerated powers

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a) Examination of accounts and affairs of banks; publication of weekly statements; reports of liabilities and assets of depository institutions; covered institutions

(1) To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each

Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature, and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under sections 461, 463, 464, 465, and 466 of this title exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 1813 of this title) or which is a member as defined in section 1422 of this title, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirement shall be made available to the Board. The Board may classify depository institutions for the purposes of this paragraph and may impose different requirements on each such class.

(b) Permitting or requiring rediscounting of paper at specified rate

To permit, or, on the affirmative vote of at least five members of the Board of Governors, to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Board.

(c) Suspending reserve requirements

To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirements specified in this chapter.

(d) Supervising and regulating issue and retirement of notes

To supervise and regulate through the Secretary of the Treasury the issue and retirement of Federal Reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of notes unfit for circulation, and to prescribe rules and regulations under which such notes may be delivered by the Secretary of the Treas-

ury to the Federal Reserve agents applying therefor.

(e) Adding to or reclassifying reserve cities

To add to the number of cities classified as reserve cities under existing law in which national banking associations are subject to the reserve requirements set forth in section 20 of this Act, or to reclassify existing reserve cities or to terminate their designation as such.

(f) Suspending or removing officers or directors of reserve banks

To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Board of Governors of the Federal Reserve System to the removed officer or director and to said bank.

(g) Requiring writing off of doubtful or worthless assets of banks

To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) Suspending operations of or liquidating or reorganizing banks

To suspend, for the violation of any of the provisions of this chapter, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) Requiring bonds of agents; safeguarding property in hands of agents

To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money, or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this chapter, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) Exercising supervision over reserve banks

To exercise general supervision over said Federal reserve banks.

(k) Delegation of certain functions; power to delegate; review of delegated activities

To delegate, by published order or rule and subject to subchapter II of chapter 5, and chapter 7, of title 5, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe.

(l) Employing attorneys, experts, assistants, and clerks; salaries and fees

To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by

said board and shall be paid in the same manner as the salaries of the members of said board.

(m) Percentage of capital and surplus represented by loans; determination by Board

Upon the affirmative vote of not less than six of its members the Board of Governors of the Federal Reserve System shall have power to fix from time to time for each Federal reserve district the percentage of individual bank capital and surplus which may be represented by loans secured by stock or bond collateral made by member banks within such district, but no such loan shall be made by any such bank to any person in an amount in excess of 15 percent of the unimpaired capital and surplus of such bank: *Provided*, That with respect to loans represented by obligations secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, such limitation of 15 percent on loans to any person shall not apply, but State member banks shall be subject to the same limitations and conditions as are applicable in the case of national banks under section 84(c)(4) of this title. Any percentage so fixed by the Board of Governors of the Federal Reserve System shall be subject to change from time to time upon ten days' notice, and it shall be the duty of the Board to establish such percentages with a view to preventing the undue use of bank loans for the speculative carrying of securities. The Board of Governors of the Federal Reserve System shall have power to direct any member bank to refrain from further increase of its loans secured by stock or bond collateral for any period up to one year under penalty of suspension of all rediscount privileges at Federal reserve banks.

(n) Board's authority to examine depository institutions and affiliates

To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this chapter.

(o) Authority to appoint conservator or receiver

The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 1821(c)(9) of this title.

(p) Authority

The Board may act in its own name and through its own attorneys in enforcing any provision of this title,¹ regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 1841 of

¹ See References in Text note below.

this title), or other entity, or the administration of its operations.

(Dec. 23, 1913, ch. 6, § 11, 38 Stat. 261; Sept. 7, 1916, ch. 461, 39 Stat. 752; Sept. 26, 1918, ch. 177, § 2, 40 Stat. 968; Mar. 3, 1919, ch. 101, § 3, 40 Stat. 1315; Feb. 27, 1921, ch. 75, 41 Stat. 1146; June 26, 1930, ch. 612, 46 Stat. 814; Mar. 9, 1933, ch. 1, title I, § 3, 48 Stat. 2; June 16, 1933, ch. 89, § 7, 48 Stat. 167; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, §§ 321(a), 342, 49 Stat. 704, 713, 722; June 12, 1945, ch. 186, § 1(c), 59 Stat. 237; July 28, 1959, Pub. L. 86-114, § 3(b)(6), 73 Stat. 264; Sept. 9, 1959, Pub. L. 86-251, § 3(c), 73 Stat. 488; Sept. 28, 1962, Pub. L. 87-722, § 3, 76 Stat. 670; May 20, 1966, Pub. L. 89-427, § 2, 80 Stat. 161; Nov. 5, 1966, Pub. L. 89-765, 80 Stat. 1314; Mar. 18, 1968, Pub. L. 90-269, § 1, 82 Stat. 50; Mar. 27, 1978, Pub. L. 95-251, § 2(a)(3), 92 Stat. 183; Mar. 31, 1980, Pub. L. 96-221, title I, § 102, 94 Stat. 132; Sept. 13, 1982, Pub. L. 97-258, § 5(b), 96 Stat. 1068; Jan. 12, 1983, Pub. L. 97-457, § 17(b), 96 Stat. 2509; Aug. 9, 1989, Pub. L. 101-73, title VII, § 744(i)(1), 103 Stat. 439; Dec. 19, 1991, Pub. L. 102-242, title I, §§ 133(f), 142(c), 105 Stat. 2273, 2281; Oct. 28, 1992, Pub. L. 102-550, title XVI, § 1603(d)(9), 106 Stat. 4080; Sept. 23, 1994, Pub. L. 103-325, title III, §§ 322(d), 331(d), title VI, § 602(g)(2), 108 Stat. 2227, 2232, 2293.)

REFERENCES IN TEXT

Sections 461, 463, 464, 465, and 466 of this title, referred to in subsec. (a)(2), was in the original “section 19 of the Federal Reserve Act”. Provisions of section 19 relating to reserve requirements are classified to the cited sections. For complete classification of section 19 to the Code, see References in Text note set out under section 461 of this title.

This chapter, referred to in subsecs. (c), (h), (i), and (n), was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Reference in subsec. (e) to “section 20 of this Act” means section 20 of the Federal Reserve Act which is not classified to the code. Since section 20 does not set forth any reserve requirements, section 19 of the Federal Reserve Act might have been intended. For provisions of section 19 relating to reserve requirements, see note above.

This title, referred to in subsec. (p), probably should read “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act, which does not contain titles. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

In subsec. (k), “subchapter II of chapter 5, and chapter 7, of title 5” was substituted for “the Administrative Procedure Act” on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (l), which authorized appointment of attorneys, experts, assistants, clerks and other employees without regard to the provisions of the act of January sixteenth, eighteen hundred and eighty-three, and amendments thereto, or any rule or regulation made in pursuance thereof, were omitted as obsolete. Appointments in the executive branch are now subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions

into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. All positions under the Board of Governors, Federal Reserve System are now excepted from the competitive service under Schedule A of the Civil Service Rules.

Section is comprised of section 11 of act Dec. 23, 1913. The fourteenth par. of section 16 of act Dec. 23, 1913, which formerly constituted subsec. (o) of this section, is now classified to section 248-1 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-325, § 602(g)(2), substituted “Secretary of the Treasury” for “bureau under the charge of the Comptroller of the Currency” before “the issue and retirement” and for “Comptroller” before “to the Federal Reserve agents”.

Subsec. (m). Pub. L. 103-325, § 322(d), which directed substitution of “15 percent” for “10 percentum” wherever appearing, was executed by substituting “15 percent” for “10 per centum” in two places to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 103-325, § 331(d), added subsec. (p). 1992—Subsecs. (o), (p). Pub. L. 102-550 redesignated subsec. (p) as (o).

1991—Subsec. (n). Pub. L. 102-242, § 142(c), which directed addition of subsec. (n) at end of section, was executed by adding subsec. (n) after subsec. (m). See Construction of 1991 Amendment note below.

Subsec. (p). Pub. L. 102-242, § 133(f), added subsec. (p).

1989—Subsec. (a)(2)(iii). Pub. L. 101-73 substituted “the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 1813 of this title)” for “Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation”.

1983—Subsec. (m). Pub. L. 97-457 substituted “under section 84(c)(4) of this title” for “under paragraph (8) of section 84 of this title” after “in the case of national banks”.

1982—Subsec. (n). Pub. L. 97-258 struck out subsec. (n) which provided that, whenever in the judgment of the Secretary of the Treasury such action was necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, could require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations and that, upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury would pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

1980—Subsec. (a). Pub. L. 96-221 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (k). Pub. L. 95-251 substituted “administrative law judges” for “hearing examiners”.

1968—Subsec. (c). Pub. L. 90-269 struck out requirements for establishment by the Board of Governors of the Federal Reserve System of a graduated tax on the deficiency in the gold reserve whenever the reserve held against Federal Reserve notes fell below 25 percent and for an automatic increase in the rates of interest or discount fixed by the Board in an amount equal to the graduated tax imposed.

1966—Subsec. (d). Pub. L. 89-427 excepted the cancellation and destruction, and the accounting with respect to the cancellation and destruction, of notes unfit for circulation from the area of responsibility exercised by the Board of Governors of the Federal Reserve System through the Bureau of the Comptroller of the Currency over the issue and retirement of Federal Reserve notes.

Subsec. (k). Pub. L. 89-765 added subsec. (k). A former subsec. (k) was repealed by Pub. L. 87-722, § 3, Sept. 28, 1962, 76 Stat. 670.

1962—Subsec. (k). Pub. L. 87-722 repealed subsec. (k) which related to the authority of the Board of Gov-

ernors of the Federal Reserve System to permit national banks to act as trustees, etc., and is now covered by section 92a of this title.

1959—Subsec. (e). Pub. L. 86-114 substituted “reserve cities” for “reserve and central reserve cities” in two places.

Subsec. (m). Pub. L. 86-251 struck out “in the form of notes” after “represented by obligations” in proviso.

1945—Subsec. (c). Act June 12, 1945, substituted “25 per centum” for “40 per centum”, and “20 per centum” for “32½ per centum” wherever appearing.

1935—Subsec. (k). Act Aug. 23, 1935, §342, amended last sentence of third par.

Subsec. (m). Act Aug. 23, 1935, §321(a), inserted proviso at end of first sentence.

1933—Subsec. (m). Act June 16, 1933, amended provisions generally.

Subsec. (n). Act Mar. 9, 1933, added subsec. (n).

1930—Subsec. (k). Act June 26, 1930, added last par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, except that where amendment is to any provision of law added or amended by Pub. L. 102-242 effective after Dec. 19, 1992, then amendment by Pub. L. 102-550 effective on effective date of amendment by Pub. L. 102-242, see section 1609 of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 133(f) of Pub. L. 102-242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102-242, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 108 of title I of Pub. L. 96-221 provided that: “This title [enacting section 248a of this title, amending this section and sections 342, 347b, 355, 360, 412, 461, 463, 505, and 1425a of this title, and enacting provisions set out as notes under sections 226 and 355 of this title] shall take effect on the first day of the sixth month which begins after the date of the enactment of this title [Mar. 31, 1980], except that the amendments regarding sections 19(b)(7) and 19(b)(8)(D) of the Federal Reserve Act [section 461(b)(7) and (b)(8)(D) of this title] shall take effect on the date of enactment of this title.”

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a Central Reserve and Reserve Cities note under section 141 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Section 1603(e)(2) of Pub. L. 102-550 provided that: “The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 [Pub. L. 102-242] (adding a paragraph at the end of section 11 of the Federal Reserve Act [this section]) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991 [amending this section].”

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

EXECUTIVE ORDER No. 6359

Ex. Ord. No. 6359, Oct. 25, 1933, as amended by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, which provided for

receipt on consignment of gold by the United States mints and assay offices, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 10547. INSPECTION OF STATISTICAL TRANSCRIPT CARDS

Ex. Ord. No. 10547, July 27, 1954, 19 F.R. 4661, required statistical transcript cards submitted with, or prepared by the Internal Revenue Service from, corporation income tax returns for the taxable years ending after June 30, 1951, and before July 1, 1952, to be open to inspection by the Board of Governors of the Federal Reserve System as an aid in executing the powers conferred upon such Board by this section, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in T.D. 6081, 19 F.R. 4666.

CROSS REFERENCES

Consolidation with State banks, see section 215 of this title.

Expansion of credit, see section 5301 et seq. of Title 31, Money and Finance.

Federal reserve bank's liability under subsec. (h) for certification of check when amount of deposit is inadequate, see section 501 of this title.

Right to amend, separability of provisions, of act Mar. 9, 1933, see sections 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 467, 501, 3105 of this title; title 5 section 5373.

§ 248-1. Rules and regulations for transfer of funds and charges therefor among banks; clearing houses

The Board of Governors of the Federal Reserve System shall make and promulgate from time to time regulations governing the transfer of funds and charges therefor among Federal reserve banks and their branches, and may at its discretion exercise the functions of a clearing house for such Federal reserve banks, or may designate a Federal reserve bank to exercise such functions, and may also require each such bank to exercise the functions of a clearing house for depository institutions.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 268; Aug. 23, 1935, ch. 614, §203(a), 49 Stat. 704; Mar. 31, 1980, Pub. L. 96-221, title I, §105(d), 94 Stat. 140.)

CODIFICATION

Section is comprised of fourteenth par. of section 16 of act Dec. 23, 1913, which was formerly classified to section 248(o) of this title. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1980—Pub. L. 96-221 substituted “depository institutions” for “its member banks”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 461 of this title.

§ 248a. Pricing of services**(a) Publication of pricing principles and proposed schedule of fees; effective date of schedule of fees**

Not later than the first day of the sixth month after March 31, 1980, the Board shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees based upon those principles for Federal Reserve bank services to depository institutions, and not later than the first day of the eighteenth month after March 31, 1980, the Board shall begin to put into effect a schedule of fees for such services which is based on those principles.

(b) Covered services

The services which shall be covered by the schedule of fees under subsection (a) of this section are—

- (1) currency and coin services;
- (2) check clearing and collection services;
- (3) wire transfer services;
- (4) automated clearinghouse services;
- (5) settlement services;
- (6) securities safekeeping services;
- (7) Federal Reserve float; and
- (8) any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds.

(c) Criteria applicable

The schedule of fees prescribed pursuant to this section shall be based on the following principles:

- (1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly.
- (2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.
- (3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.
- (4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

(d) Budgetary consequences of decline in volume of services

The Board shall require reductions in the operating budgets of the Federal Reserve banks

commensurate with any actual or projected decline in the volume of services to be provided by such banks. The full amount of any savings so realized shall be paid into the United States Treasury.

(e) Parity in clearing

All depository institutions, as defined in section 461(b)(1) of this title, may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 461(b)(1) of this title from other depository institutions, as defined in section 461(b)(1) of this title or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.

(Dec. 23, 1913, ch. 6, § 11A, as added Mar. 31, 1980, Pub. L. 96-221, title I, § 107, 94 Stat. 140; amended Aug. 10, 1987, Pub. L. 100-86, title VI, § 612(a), 101 Stat. 652.)

AMENDMENTS

1987—Subsec. (e). Pub. L. 100-86 added subsec. (e).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 612(b) of Pub. L. 100-86 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this title [Aug. 10, 1987].”

EFFECTIVE DATE

Section effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 461, 1431, 1795f, 1841 of this title.

§ 249. Repealed. Pub. L. 94-412, title V, § 501(c), Sept. 14, 1976, 90 Stat. 1258

Section, act Aug. 8, 1947, ch. 517, 61 Stat. 921, dealt with regulation of consumer credit.

SAVINGS PROVISION

Repeal by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 250. Independence of financial regulatory agencies

No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

(Pub. L. 93-495, title I, § 111, Oct. 28, 1974, 88 Stat. 1506; Pub. L. 101-73, title VII, § 744(j), Aug. 9, 1989, 103 Stat. 439; Pub. L. 103-325, title III, § 331(a), Sept. 23, 1994, 108 Stat. 2232.)

CODIFICATION

Section was not enacted as part of the Federal Reserve Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103-325 inserted “the Comptroller of the Currency,” after “Federal Deposit Insurance Corporation.”

1989—Pub. L. 101-73, which directed that section 3 of Pub. L. 93-495 be amended by substituting “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board”, was executed to section 111 of Pub. L. 93-495, which is classified to this section, as the probable intent of Congress.

§ 251. Modified small business lending disclosure

The Board of Governors of the Federal Reserve System shall collect and publish, on an annual basis, information on the availability of credit to small businesses. The information shall, to the extent practicable—

(1) include information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses;

(2) be given for categories of small businesses determined by annual sales and for small businesses in existence for less than 1 year; and

(3) be given for each geographic region of the United States.

In collecting the information, the Board of Governors of the Federal Reserve System shall take into consideration the need to minimize reporting costs, if any, on financial institutions.

(Pub. L. 102-242, title IV, § 477, Dec. 19, 1991, 105 Stat. 2387; Pub. L. 102-550, title XVI, § 1606(i)(3), Oct. 28, 1992, 106 Stat. 4089.)

CODIFICATION

Section was enacted as part of the Federal Deposit Insurance Corporation Improvement Act of 1991, and not as part of the Federal Reserve Act which comprises this chapter.

AMENDMENTS

1992—Pub. L. 102-550 substituted “Board of Governors of the Federal Reserve System” for “Federal Reserve Board” in introductory and concluding provisions.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

SUBCHAPTER III—FEDERAL ADVISORY COUNCIL

§ 261. Creation; membership; compensation; meetings; officers; procedure; quorum; vacancies

There is created a Federal Advisory Council, which shall consist of as many members as there are Federal reserve districts. Each Federal reserve bank by its board of directors shall annu-

ally select from its own Federal reserve district one member of said council, who shall receive such compensation and allowances as may be fixed by his board of directors subject to the approval of the Board of Governors of the Federal Reserve System. The meetings of said advisory council shall be held at Washington, District of Columbia, at least four times each year, and oftener if called by the Board of Governors of the Federal Reserve System. The council may in addition to the meetings above provided for hold such other meetings in Washington, District of Columbia, or elsewhere, as it may deem necessary, may select its own officers and adopt its own methods of procedure, and a majority of its members shall constitute a quorum for the transaction of business. Vacancies in the council shall be filled by the respective reserve banks, and members selected to fill vacancies shall serve for the unexpired term.

(Dec. 23, 1913, ch. 6, § 12 (par.), 38 Stat. 263; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of first par. of section 12 of act Dec. 23, 1913. Second par. of section 12 is classified to section 262 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 262. Powers

The Federal Advisory Council shall have power, by itself or through its officers, (1) to confer directly with the Board of Governors of the Federal Reserve System on general business conditions; (2) to make oral or written representations concerning matters within the jurisdiction of said board; (3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system.

(Dec. 23, 1913, ch. 6, § 12 (par.), 38 Stat. 263; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of second par. of section 12 of act Dec. 23, 1913. First par. of section 12 is classified to section 261 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

Provisions for payment of obligations containing a gold clause, see section 5118 of Title 31.

SUBCHAPTER IV—FEDERAL OPEN MARKET COMMITTEE

§ 263. Federal Open Market Committee; creation; membership; regulations governing open-market transactions

(a) There is hereby created a Federal Open Market Committee (hereinafter referred to as

the “Committee”), which shall consist of the members of the Board of Governors of the Federal Reserve System and five representatives of the Federal Reserve banks to be selected as hereinafter provided. Such representatives shall be presidents or first vice presidents of Federal Reserve banks and, beginning with the election for the term commencing March 1, 1943, shall be elected annually as follows: One by the board of directors of the Federal Reserve Bank of New York, one by the boards of directors of the Federal Reserve Banks of Boston, Philadelphia, and Richmond, one by the boards of directors of the Federal Reserve Banks of Cleveland and Chicago, one by the boards of directors of the Federal Reserve Banks of Atlanta, Dallas, and St. Louis, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco. In such elections each board of directors shall have one vote; and the details of such elections may be governed by regulations prescribed by the committee, which may be amended from time to time. An alternate to serve in the absence of each such representative shall likewise be a president or first vice president of a Federal Reserve bank and shall be elected annually in the same manner. The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) No Federal Reserve bank shall engage or decline to engage in open-market operations under sections 348a and 353 to 359 of this title except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.

(c) The time, character, and volume of all purchases and sales of paper described in sections 348a and 353 to 359 of this title as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

(Dec. 23, 1913, ch. 6, §12A, as added June 16, 1933, ch. 89, §8, 48 Stat. 168; amended Aug. 23, 1935, ch. 614, title II, §205, 49 Stat. 705; July 7, 1942, ch. 488, §1, 56 Stat. 647.)

AMENDMENTS

1942—Subsec. (a). Act July 7, 1942, substituted second, third, and fourth sentences for former second and third sentences.

1935—Act Aug. 23, 1935, amended provisions relating to membership in subsec. (a), substituted “Committee” for “Federal Reserve Board” and “Board” in subsec. (b), and omitted subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 355 of this title.

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

§ 264. Transferred

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §12B, as added June 16, 1933, ch. 89, §8, 48 Stat. 168; amended June 16, 1934,

ch. 546, §1 (1)–(10), 48 Stat. 969, 970; June 28, 1935, ch. 335, 49 Stat. 435; Aug. 23, 1935, ch. 614, title I, §101, 49 Stat. 684; Apr. 21, 1936, ch. 244, 49 Stat. 1237; May 25, 1938, ch. 276, 52 Stat. 442; June 16, 1938, ch. 489, 52 Stat. 767; June 20, 1939, ch. 214, §2, 53 Stat. 842; Apr. 13, 1943, ch. 62, §1, 57 Stat. 65; Aug. 5, 1947, ch. 492, §§2, 4, 61 Stat. 773; June 25, 1948, ch. 645, §21, 62 Stat. 862; Oct. 15, 1949, ch. 695, §4, 63 Stat. 880; Aug. 17, 1950, ch. 729, §§5–7, 64 Stat. 457, relating to the Federal Deposit Insurance Corporation, was withdrawn from the Federal Reserve Act and made a separate act to be known as the Federal Deposit Insurance Act, by section 1 of act Sept. 21, 1950, ch. 967, 64 Stat. 873. The Federal Deposit Insurance Act is classified to chapter 16 (§1811 et seq.) of this title.

§ 265. Insured banks as depositaries of public money; duties; security; discrimination between banks prohibited; repeal of inconsistent laws

All insured banks designated for that purpose by the Secretary of the Treasury shall be depositaries of public money of the United States (including, without being limited to, revenues and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees, and Postal Savings funds), and the Secretary is authorized to deposit public money in such depositaries, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government as may be required of them. The Secretary of the Treasury shall require of the insured banks thus designated satisfactory security by the deposit of United States bonds or otherwise, for the safekeeping and prompt payment of public money deposited with them and for the faithful performance of their duties as financial agents of the Government: *Provided*, That no such security shall be required for the safekeeping and prompt payment of such parts of the deposits of the public money in such banks as are insured deposits and each officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. Notwithstanding any other provision of law, no department, board, agency, instrumentality, officer, employee, or agent of the United States shall issue or permit to continue in effect any regulations, rulings, or instructions or enter into or approve any contracts or perform any other acts having to do with the deposit, disbursement, or expenditure of public funds, or the deposit, custody, or advance of funds subject to the control of the United States as trustee or otherwise which shall discriminate against or prefer national banking associations, State banks members of the Federal Reserve System, or insured banks not members of the Federal Reserve System, by class, or which shall require those enjoying the benefits, directly or indirectly, of disbursed public funds so to dis-

criminate. All Acts or parts thereof in conflict herewith are repealed. The terms “insured bank” and “insured deposit” as used in this section shall be construed according to the definitions of such terms in section 1813 of this title. (June 11, 1942, ch. 404, §10, 56 Stat. 356; Sept. 3, 1954, ch. 1263, §26, 68 Stat. 1235.)

CODIFICATION

Section was formerly classified to section 1110 of the Appendix to Title 50, War and National Defense.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted “section 1813” for “section 264” in last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 22106.

§ 266. State-chartered banks and other institutions as depositaries of public money; fiscal agents; duties

Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

(Pub. L. 95-147, §2(d), Oct. 28, 1977, 91 Stat. 1228.)

CODIFICATION

Section was not enacted as part of the Federal Reserve Act, which comprises this chapter.

SUBCHAPTER VI—CAPITAL AND STOCK OF FEDERAL RESERVE BANKS; DIVIDENDS AND EARNINGS

§ 281. Capital

No Federal reserve bank shall commence business with a subscribed capital less than \$4,000,000.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 282. Subscription to capital stock by national banking association

Every national banking association within each Federal reserve district shall be required to subscribe to the capital stock of the Federal reserve bank for that district in a sum equal to 6 per centum of the paid-up capital stock and surplus of such bank, one-sixth of the subscription

to be payable on call of the Board of Governors of the Federal Reserve System, one-sixth within three months and one-sixth within six months thereafter, and the remainder of the subscription, or any part thereof, shall be subject to call when deemed necessary by the Board, said payments to be in gold or gold certificates.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 252; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Payment of obligations containing a gold clause, see section 5118 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 283. Public subscription to capital stock

No individual, copartnership, or corporation other than a member bank of its district shall be permitted to subscribe for or to hold at any time more than \$25,000 par value of stock in any Federal reserve bank. Such stock shall be known as public stock and may be transferred on the books of the Federal reserve bank by the chairman of the board of directors of such bank.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 284. Omitted

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §2, 38 Stat. 251, was omitted as obsolete pursuant to a communication from the Board of Governors of the Federal Reserve System dated Mar. 7, 1941, which stated “As originally enacted the Federal Reserve Act provided for a Reserve Bank Organization Committee to have charge of the initial steps in organizing the Federal Reserve System and this Committee was authorized to allot Federal Reserve Bank stock to the United States in the event that subscriptions to such stock by banks and by the public were inadequate. However, subscriptions by member banks were adequate and there was no necessity or authority for the allocation of any stock to the United States. Accordingly, [this section] is now of no practical effect, and may be regarded as obsolete.”

§ 285. Nonvoting stock

Stock not held by member banks shall not be entitled to voting power.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 286. Transfers of stock; rules and regulations

The Board of Governors of the Federal Reserve System is empowered to adopt and promulgate rules and regulations governing the transfers of said stock.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 253; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 287. Value of shares of stock; increase and decrease of stock; member banks as shareholders; surrender of shares

The capital stock of each Federal reserve bank shall be divided into shares of \$100 each. The outstanding capital stock shall be increased from time to time as member banks increase their capital stock and surplus or as additional banks become members, and may be decreased as member banks reduce their capital stock or surplus or cease to be members. Shares of the capital stock of Federal reserve banks owned by member banks shall not be transferred or hypothecated. When a member bank increases its capital stock or surplus, it shall thereupon subscribe for an additional amount of capital stock of the Federal reserve bank of its district equal to 6 per centum of the said increase, one-half of said subscription to be paid in the manner hereinbefore provided for original subscription, and one-half subject to call of the Board of Governors of the Federal Reserve System. A bank applying for stock in a Federal reserve bank at any time after the organization thereof must subscribe for an amount of the capital stock of the Federal reserve bank equal to 6 per centum of the paid-up capital stock and surplus of said applicant bank, paying therefor its par value plus one-half of 1 per centum a month from the period of the last dividend. When a member bank reduces its capital stock or surplus it shall surrender a proportionate amount of its holdings in the capital stock of said Federal Reserve bank. Any member bank which holds capital stock of a Federal Reserve bank in excess of the amount required on the basis of 6 per centum of its paid-up capital stock and surplus shall surrender such excess stock. When a member bank voluntarily liquidates it shall surrender all of its holdings of the capital stock of said Federal Reserve bank and be released from its stock subscription not previously called. In any such case the shares surrendered shall be canceled and the member bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares surrendered and one-half of 1 per centum a month from the period of the last dividend not to exceed the book value thereof, less any liability of such member bank to the Federal Reserve bank.

(Dec. 23, 1913, ch. 6, § 5, 38 Stat. 257; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 319(a), 49 Stat. 704, 713.)

AMENDMENTS

1935—Act Aug. 23, 1935, § 319(a), amended last four sentences.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 321 of this title.

§ 288. Cancellation of stock held by member bank on insolvency or discontinuance of banking operations for sixty days; repayment of cash-paid subscriptions

If any member bank shall be declared insolvent and a receiver appointed therefor, the stock held by it in said Federal reserve bank shall be canceled, without impairment of its liability, and all cash-paid subscriptions on said stock, with one-half of 1 per centum per month from the period of last dividend, if earned, not to exceed the book value thereof, shall be first applied to all debts of the insolvent member bank to the Federal reserve bank, and the balance, if any, shall be paid to the receiver of the insolvent bank.

If any national bank which has not gone into liquidation as provided in section 181 of this title, and for which a receiver has not already been appointed for other lawful cause, shall discontinue its banking operations for a period of sixty days the Comptroller of the Currency may, if he deems it advisable, appoint a receiver for such bank. The stock held by the said national bank in the Federal reserve bank of its district shall thereupon be canceled and said national bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares canceled and one-half of 1 per centum a month from the period of the last dividend, if earned, not to exceed the book value thereof, less any liability of such national bank to the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 6, 38 Stat. 258; Apr. 23, 1930, ch. 207, § 1, 46 Stat. 250; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 319(b), 49 Stat. 704, 713.)

AMENDMENTS

1935—Act Aug. 23, 1935, § 319(b), struck out provision requiring execution of certificate of reduction of capital stock.

1930—Act Apr. 23, 1930, among other changes, added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 289. Dividends and surplus funds of reserve banks

(1) Stockholder dividends

(A) In general

After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

(B) Dividend cumulative

The entitlement to dividends under subparagraph (A) shall be cumulative.

(2) Deposit of net earnings in surplus fund

That portion of net earnings of each Federal reserve bank which remains after dividend claims under paragraph (1)(A) have been fully met shall be deposited in the surplus fund of the bank.

(3) Payment to Treasury

During fiscal years 1997 and 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.

(Dec. 23, 1913, ch. 6, §7(a), 38 Stat. 258; Mar. 3, 1919, ch. 101, §1, 40 Stat. 1314; June 16, 1933, ch. 89, §4, 48 Stat. 163; Aug. 10, 1993, Pub. L. 103-66, title III, §3002(a), 107 Stat. 337; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(d), 108 Stat. 2291.)

CODIFICATION

Section is comprised of subsec. (a) [formerly first undesignated par.] of section 7 of act Dec. 23, 1913. Subsecs. (b) and (c) of section 7 are classified to sections 290 and 531, respectively, of this title.

AMENDMENTS

1994—Par. (1)(B). Pub. L. 103-325, §602(d)(1), inserted “(A)” after “subparagraph”.

Par. (2). Pub. L. 103-325, §602(d)(2), substituted “paragraph (1)(A)” for “subparagraph (A)”.

1993—Pub. L. 103-66 inserted section catchline and amended section generally. Prior to amendment, section read as follows: “After all necessary expenses of a Federal reserve bank shall have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of 6 per centum on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met, the net earnings shall be paid into the surplus fund of the Federal reserve bank.”

1933—Act June 16, 1933, provided that net earnings shall be paid into surplus instead of to the United States as a franchise tax.

EFFECTIVE DATE OF 1933 AMENDMENT

Section 4 of act June 16, 1933, provided that the amendment made by that section is effective July 1, 1932.

ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998

Section 3002(b) of Pub. L. 103-66 provided that:

“(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act [12 U.S.C. 289(3)], the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of \$106,000,000 in fiscal year 1997 and a total amount of \$107,000,000 in fiscal year 1998.

“(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

“(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under paragraph (1) during fiscal years 1997 and 1998.”

§ 290. Use of earnings transferred to Treasury

The net earnings derived by the United States from Federal reserve banks shall, in the discretion of the Secretary, be used to supplement the gold reserve held against outstanding United States notes, or shall be applied to the reduction of the outstanding bonded indebtedness of the United States under regulations to be prescribed by the Secretary of the Treasury. Should a Federal reserve bank be dissolved or go into liquidation, any surplus remaining, after the payment of all debts, dividend requirements as hereinbefore provided, and the par value of the stock, shall be paid to and become the property of the United States and shall be similarly applied.

(Dec. 23, 1913, ch. 6, §7(b), 38 Stat. 258; Aug. 10, 1993, Pub. L. 103-66, title III, §3002(c)(1), 107 Stat. 337.)

CODIFICATION

Section is comprised of subsec. (b) [formerly second undesignated par.] of section 7 of act Dec. 23, 1913. Subsecs. (a) and (c) of section 7 are classified to sections 289 and 531, respectively, of this title.

AMENDMENTS

1993—Pub. L. 103-66 inserted section catchline.

SUBCHAPTER VII—DIRECTORS OF FEDERAL RESERVE BANKS; RESERVE AGENTS AND ASSISTANTS**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in section 442 of this title.

§ 301. Powers and duties of board of directors; suspension of member bank for undue use of bank credit

Every Federal reserve bank shall be conducted under the supervision and control of a board of directors.

The board of directors shall perform the duties usually appertaining to the office of directors of banking associations and all such duties as are prescribed by law.

Said board of directors shall administer the affairs of said bank fairly and impartially and without discrimination in favor of or against any member bank or banks and may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and accommodations as may be safely and reasonably made with due regard for the claims and demands of other members banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry, and agriculture. The Board of Governors of the Federal Reserve System may prescribe regulations further defining within the limitations of this chapter the conditions under which discounts, advancements, and the accommodations may be extended to member banks. Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose incon-

sistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts, or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Board of Governors of the Federal Reserve System any such undue use of bank credit by any member bank, together with his recommendation. Whenever, in the judgment of the Board of Governors of the Federal Reserve System, any member bank is making such undue use of bank credit, the Board may, in its discretion, after reasonable notice and an opportunity for a hearing, suspend such bank from the use of the credit facilities of the Federal Reserve System and may terminate such suspension or may renew it from time to time.

(Dec. 23, 1913, ch. 6, § 4 (pars.), 38 Stat. 255; June 16, 1933, ch. 89, § 3(a), 48 Stat. 163; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of pars. 6 to 8 of section 4 of act Dec. 23, 1913.

Pars. 1 to 3 and 25 of section 4 were omitted from the code as executed.

Pars. 4 and 5, 9 to 12, 13 to 15, 16 to 21, 22, 24, and 26 of section 4, and par. 23 of section 4 as added June 21, 1917, ch. 32, § 2, 40, Stat. 232, are classified to sections 341, 302, 303, 304, 305, 307, 308, and 306, respectively, of this title.

AMENDMENTS

1933—Act June 16, 1933, among other changes, added all after first sentence in third par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Powers of Board of Governors of the Federal Reserve System, see section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 302. Number of members; classes

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, without discrimination on the basis of race, creed, color, sex, or national origin, who shall be chosen by and be representative of the stockholding banks.

Class B shall consist of three members, who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the inter-

ests of agriculture, commerce, industry, services, labor, and consumers.

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

(Dec. 23, 1913, ch. 6, § 4 (pars.), 38 Stat. 255; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Nov. 16, 1977, Pub. L. 95-188, title II, § 202, 91 Stat. 1387.)

CODIFICATION

Section is comprised of pars. 9 to 12 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

Provisions of section which related to appointment of Class C directors when the necessary subscriptions to the capital stock have been obtained for the organization of any Federal Reserve Bank and which required the organization committee to exercise the powers and duties appertaining to the office of chairman in the organization of such Federal Reserve Bank pending the designation of a chairman, were omitted as obsolete.

Another section 202 of Pub. L. 95-188 enacted section 225a of this title.

AMENDMENTS

1977—Second par. Pub. L. 95-188, § 202(a), required Class A members to be chosen without discrimination on the basis of race, creed, color, sex or national origin.

Third par. Pub. L. 95-188, § 202(b), substituted requirement that Class B members represent the public and be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers for prior requirement that such Class B members, at the time of their election, be actively engaged in their district in commerce, agriculture or some other industrial pursuit.

Fourth par. Pub. L. 95-188, § 202(c), required Class C members to be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 303. Qualifications and disabilities

No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal reserve bank.

No director of class B shall be an officer, director, or employee of any bank.

No director of class C shall be an officer, director, employee, or stockholder of any bank.

(Dec. 23, 1913, ch. 6, § 4 (pars.), 38 Stat. 255; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of pars. 13 to 15 of section 4 of act Dec. 23, 1913. For classification to this title of other

pars. of section 4, see Codification note set out under section 301 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 304. Class A and class B directors; selection

Directors of class A and class B shall be chosen in the following manner: The Board of Governors of the Federal Reserve System shall classify the member banks of the district into three general groups or divisions designating each group by number. Each group shall consist as nearly as may be of banks of similar capitalization. Each member bank shall be permitted to nominate to the chairman of the board of directors of the Federal reserve bank of the district one candidate for director of class A and one candidate for director of class B. The candidates so nominated shall be listed by the chairman, indicating by whom nominated, and a copy of said list shall, within fifteen days after its completion, be furnished by the chairman to each member bank. Each member bank by a resolution of the board or by an amendment to its by-laws shall authorize its president, cashier, or some other officer to cast the vote of the member bank in the elections of class A and class B directors: *Provided*, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.

Within fifteen days after receipt of the list of candidates the duly authorized officer of a member bank shall certify to the chairman his first, second, and other choices for director of class A and class B, respectively, upon a preferential ballot upon a form furnished by the chairman of the board of directors of the Federal reserve bank of the district. Each such officer shall make a cross opposite the name of the first, second, and other choices for a director of class A and for a director of class B, but shall not vote more than one choice for any one candidate. No officer or director of a member bank shall be eligible to serve as a class A director unless nominated and elected by banks which are members of the same group as the member bank of which he is an officer or director.

Any person who is an officer or director of more than one member bank shall not be eligible for nomination as a class A director except by banks in the same group as the bank having the largest aggregate resources of any of those of which such person is an officer or director.

Any candidate having a majority of all votes cast in the column of first choice shall be declared elected. If no candidate have a majority of all the votes in the first column, then there

shall be added together the votes cast by the electors for such candidates in the second column and the votes cast for the several candidates in the first column. The candidate then having a majority of the electors voting and the highest number of combined votes shall be declared elected. If no candidate have a majority of electors voting and the highest number of votes when the first and second choices shall have been added, then the votes cast in the third column for other choices shall be added together in like manner, and the candidate then having the highest number of votes shall be declared elected. An immediate report of election shall be declared.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 256; Sept. 26, 1918, ch. 177, §1, 40 Stat. 968; June 26, 1930, ch. 614, 46 Stat. 815; June 16, 1933, ch. 89, §3(b), 48 Stat. 163; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; July 1, 1966, Pub. L. 89-485, §13(e), 80 Stat. 243.)

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, as amended, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

CODIFICATION

Section is comprised of pars. 16 to 21 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

AMENDMENTS

1966—Pub. L. 89-485 substituted proviso restricting participation in nomination or election of directors by member banks to one member bank whenever any member banks within the same Federal reserve district are subsidiaries of the same bank holding company, such member bank to be designated for the purpose by the holding company for former proviso restricting the selection of directors by member banks to one member bank when two or more member banks within the same Federal reserve district are affiliated with the same holding company affiliate, such member bank to be designated for such purpose by the holding company affiliate.

1933—Act June 16, 1933, inserted proviso at end of second par.

1930—Act June 26, 1930, amended last par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 305. Class C directors; selection; “Federal reserve agent”

Class C directors shall be appointed by the Board of Governors of the Federal Reserve System. They shall have been for at least two years residents of the district for which they are appointed, one of whom shall be designated by said board as chairman of the board of directors of the Federal reserve bank and as “Federal reserve agent.” He shall be a person of tested banking experience and in addition to his duties as chairman of the board of directors of the Fed-

eral reserve bank he shall be required to maintain, under regulations to be established by the Board of Governors of the Federal Reserve System, a local office of said board on the premises of the Federal reserve bank. He shall make regular reports to the Board of Governors of the Federal Reserve System and shall act as its official representative for the performance of the functions conferred upon it by this chapter. He shall receive an annual compensation to be fixed by the Board of Governors of the Federal Reserve System and paid monthly by the Federal reserve bank to which he is designated. One of the directors of class C shall be appointed by the Board of Governors of the Federal Reserve System as deputy chairman to exercise the powers of the chairman of the board when necessary. In case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the board.

(Dec. 23, 1913, ch. 6, § 4 (par.), 38 Stat. 256; June 21, 1917, ch. 32, § 2, 40 Stat. 232; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 22 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 306. Assistants to Federal reserve agent

Subject to the approval of the Board of Governors of the Federal Reserve System, the Federal reserve agent shall appoint one or more assistants. Such assistants, who shall be persons of tested banking experience, shall assist the Federal reserve agent in the performance of his duties and shall also have power to act in his name and stead during his absence or disability. The Board of Governors of the Federal Reserve System shall require such bonds of the assistant Federal reserve agents as it may deem necessary for the protection of the United States. Assistants to the Federal reserve agent shall receive an annual compensation, to be fixed and paid in the same manner as that of the Federal reserve agent.

(Dec. 23, 1913, ch. 6, § 4 (par.), as added June 21, 1917, ch. 32, § 2, 40 Stat. 232; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 23 of section 4 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 307. Compensation of directors

Directors of Federal reserve banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for necessary expenses in attending meetings of their respective boards, which amount shall be paid by the respective Federal reserve banks. Any compensation that may be provided by boards of directors of Federal reserve banks for directors, officers, or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 4 (par.), 38 Stat. 257; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 24 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 308. Terms of directors; vacancies

At the first meeting of the full board of directors of each Federal reserve bank, it shall be the duty of the directors of classes A, B, and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the 1st of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years. Vacancies that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.

(Dec. 23, 1913, ch. 6, § 4 (par.), 38 Stat. 257.)

CODIFICATION

Section is comprised of par. 26 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

SUBCHAPTER VIII—STATE BANKS AS MEMBERS OF SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 349, 377, 501, 1818 of this title; title 7 section 6f; title 15 sections 780-5, 78q.

§ 321. Application for membership

Any bank incorporated by special law of any State, or organized under the general laws of any State or of the United States, including

Morris Plan banks and other incorporated banking institutions engaged in similar business, desiring to become a member of the Federal Reserve System, may make application to the Board of Governors of the Federal Reserve System, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal Reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. For the purposes of membership of any such bank the terms "capital" and "capital stock" shall include the amount of outstanding capital notes and debentures legally issued by the applying bank and purchased by the Reconstruction Finance Corporation. The Board of Governors of the Federal Reserve System, subject to the provisions of this chapter and to such conditions as it may prescribe pursuant thereto may permit the applying bank to become a stockholder of such Federal Reserve bank.

Upon the conversion of a national bank into a State bank, or the merger or consolidation of a national bank with a State bank which is not a member of the Federal Reserve System, the resulting or continuing State bank may be admitted to membership in the Federal Reserve System by the Board of Governors of the Federal Reserve System in accordance with the provisions of this section, but, otherwise, the Federal Reserve bank stock owned by the national bank shall be canceled and paid for as provided in section 287 of this title. Upon the merger or consolidation of a national bank with a State member bank under a State charter, the membership of the State bank in the Federal Reserve System shall continue.

Any such State bank which on February 25, 1927, has established and is operating a branch or branches in conformity with the State law, may retain and operate the same while remaining or upon becoming a stockholder of such Federal Reserve bank; but no such State bank may retain or acquire stock in a Federal Reserve bank except upon relinquishment of any branch or branches established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated: *Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country, on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks except that the approval of the Board of Governors of the Federal Reserve System, instead of the Comptroller of the Currency, shall be obtained before any State member bank may hereafter establish any branch and before any State bank hereafter admitted to membership may retain any branch established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated. The approval of the Board shall likewise be obtained before any State member bank may establish any new branch within the limits of any such city, town, or village (except within the District of Columbia).

(Dec. 23, 1913, ch. 6, § 9 (pars.), 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Feb. 25, 1927, ch. 191, § 9, 44 Stat. 1229; June 16, 1933, ch. 89, § 5(a), (b), 48 Stat. 164; June 16, 1934, ch. 546, § 2, 48 Stat. 971; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 338, 49 Stat. 704, 721; Aug. 17, 1950, ch. 729, § 8, 64 Stat. 458; July 15, 1952, ch. 753, § 2(a), 66 Stat. 633.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of the first three pars. of section 9 of act Dec. 23, 1913, as amended. The first par. of this section is comprised of the first par. of section 9 as amended in 1917 (40 Stat. 232). The second par. of this section was added as a new par. to follow the first par. of section 9, by act Aug. 17, 1950. The third par. of this section originally constituted the second par. of section 9, as amended by act Feb. 25, 1927, and became the third par. when act Aug. 17, 1950 added the new second par. The fourth to twenty-fourth pars. of section 9, as amended, are classified to sections 322 to 338a of this title. Section 329a of this title, which was based on par. twelve of section 9, was omitted from the Code. Paragraph twenty-two of section 9, which was classified to section 337 of this title, was repealed by Pub. L. 89-485, § 13(g), July 1, 1966, 80 Stat. 243.

AMENDMENTS

1952—Act July 15, 1952, inserted last sentence to third par.

1950—Act Aug. 17, 1950, inserted second par., permitting application for membership in the Federal Reserve System by the State bank resulting from a conversion, merger, or consolidation transaction involving a national bank, except where the national bank merges or consolidates with a State bank already a member of System in which case the membership continues.

1935—Act Aug. 23, 1935, § 338, inserted phrase in third (formerly second) par. beginning "except that the approval of the Board of Governors".

1934—Act June 16, 1934, inserted third sentence in first par.

1933—Act June 16, 1933, inserted "including Morris Plan banks and other incorporated banking institutions engaged in similar business" in first par. and inserted proviso to third (formerly second) par. through "branches of national banks".

1927—Act Feb. 25, 1927, inserted second par. which became third par. in 1950. See Codification note above.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

CROSS REFERENCES

Member banks of Federal reserve as subject to penalties under sections 321 to 329, 330 to 336, 338, see section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 6f.

§ 322. Determination on application

In acting upon such applications the Board of Governors of the Federal Reserve System shall consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers exercised are consistent with the purposes of this chapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 233; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the fourth par. of section 9 of act Dec. 23, 1913, as amended. The fourth par. constituted the second par. of section 9 in 1917 (40 Stat. 232), became the third par. in 1927 (44 Stat. 1229), and became the fourth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 323. Stock in Federal reserve banks; method of payment

Whenever the Board of Governors of the Federal Reserve System shall permit the applying bank to become a stockholder in the Federal reserve bank of the district its stock subscription shall be payable on call of the Board of Governors of the Federal Reserve System, and stock issued to it shall be held subject to the provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 233; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the fifth par. of section 9 of act Dec. 23, 1913, as amended. The fifth par. constituted the third par. of section 9 in 1917 (40 Stat. 232), became the fourth par. in 1927 (44 Stat. 1229), and became the fifth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 324. Laws applicable on becoming members

All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this chapter, to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock and which relate to the withdrawal or impairment of their capital stock, and to conform to the provisions of sections 56 and 60(b) of this title with respect to the payment of dividends; except that any reference in any such provision to the Comptroller of the Currency shall be deemed for the purposes of this sentence to be a reference to the Board of Governors of

the Federal Reserve System. Such banks and the officers, agents, and employees thereof shall also be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18, and shall be required to make reports of condition and of the payment of dividends to the Federal Reserve bank of which they become a member. Not less than three of such reports shall be made annually on call of the Federal Reserve bank on dates to be fixed by the Board of Governors of the Federal Reserve System. Any bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this paragraph. Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require.

(Dec. 23, 1913, ch. 6, § 9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 233; Aug. 23, 1935, ch. 614, title III, § 320, 49 Stat. 713; Sept. 3, 1954, ch. 1263, § 27, 68 Stat. 1236; Sept. 8, 1959, Pub. L. 86-230, § 21(b), 73 Stat. 466; Aug. 9, 1989, Pub. L. 101-73, title IX, § 911(d), 103 Stat. 480; Sept. 23, 1994, Pub. L. 103-325, title III, § 308(c), 108 Stat. 2218.)

CODIFICATION

Section is comprised of the sixth par. of section 9 of act Dec. 23, 1913, as amended. The sixth par. constituted the fourth par. of section 9 in 1917 (40 Stat. 232), became the fifth par. in 1927 (44 Stat. 1229), and became the sixth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out before period at end “and shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe”.

1989—Pub. L. 101-73 substituted provisions for different and increasing levels of penalties, assessment and collection of penalties, and agency hearings for provision that failure to make such reports within ten days after the date they were called for would subject the offending bank to a penalty of \$100 a day for each day that it failed to transmit such report, such penalty to have been collected by the Federal Reserve bank by suit or otherwise.

1959—Pub. L. 86-230 required State member banks to comply with section 60(b) of this title and inserted provisions requiring a reference to the Comptroller of the Currency to be deemed a reference to the Board of Governors of the Federal Reserve System.

1954—Act Sept. 3, 1954, substituted “sections 334, 656, and 1005 of title 18” for “section 592 of this title”, and “Board of Governors of the Federal Reserve System” for “Federal Reserve Board”.

1935—Act Aug. 23, 1935 inserted last sentence of section.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 325. Examinations

As a condition of membership such banks shall likewise be subject to examinations made by direction of the Board of Governors of the Federal Reserve System or of the Federal reserve bank by examiners selected or approved by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 233, and amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the seventh par. of section 9 of act Dec. 23, 1913, as amended. The seventh par. constituted the fifth par. of section 9 in 1917 (40 Stat. 232), became the sixth par. in 1927 (44 Stat. 1229), and became the seventh par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 326. Acceptance of examinations and reports by State authorities; special examinations

Whenever the directors of the Federal reserve bank shall approve the examinations made by the State authorities, such examinations and the reports thereof may be accepted in lieu of examinations made by examiners selected or ap-

proved by the Board of Governors of the Federal Reserve System: *Provided, however,* That when it deems it necessary the board may order special examinations by examiners of its own selection and shall in all cases approve the form of the report. The expenses of all examinations, other than those made by State authorities, may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined and, when so assessed, shall be paid by the banks examined. Copies of the reports of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be furnished to the State authorities having supervision of such banks, to officers, directors, or receivers of such banks, and to any other proper persons.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 233; amended June 26, 1930, ch. 611, § 1, 46 Stat. 814; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the eighth par. of section 9 of act Dec. 23, 1913, as amended. The eighth par. constituted the sixth par. of section 9 in 1917 (40 Stat. 232), became the seventh par. in 1927 (44 Stat. 1229), and became the eighth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1930—Act June 26, 1930, amended next to last sentence and inserted last sentence.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 327. Surrender of stock and cancellation of memberships

If at any time it shall appear to the Board of Governors of the Federal Reserve System that a member bank has failed to comply with the provisions of this subchapter, or the regulations of the Board of Governors of the Federal Reserve System made pursuant thereto, or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor, it shall be within the power of the board after hearing to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership. The Board of Governors of the Federal Reserve System may restore membership upon due proof of compliance with the conditions imposed by this subchapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 233; Apr. 23, 1930, ch. 207, § 2, 46 Stat. 251; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this section”, meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§ 321 et seq.).

CODIFICATION

Section is comprised of the ninth par. of section 9 of act Dec. 23, 1913, as amended. The ninth par. con-

stituted the seventh par. of section 9 in 1917 (40 Stat. 232), became the eighth par. in 1927 (44 Stat. 1229), and became the ninth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1930—Act Apr. 23, 1930, inserted “or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor,” to first sentence.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Number of directors of State bank or trust company, violation as subjecting to forfeiture of membership in Federal Reserve System under this section, see section 71a of this title.

Termination of membership in Federal Deposit Insurance Corporation as ground for terminating membership in Federal Reserve System, see section 1818 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 71a of this title.

§ 328. Withdrawals from membership

Any State bank or trust company desiring to withdraw from membership in a Federal Reserve bank may do so, after six months’ written notice shall have been filed with the Board of Governors of the Federal Reserve System, upon the surrender and cancellation of all of its holdings of capital stock in the Federal reserve bank: *Provided*, That the Board of Governors of the Federal Reserve System, in its discretion and subject to such conditions as it may prescribe, may waive such six months’ notice in individual cases and may permit any such State bank or trust company to withdraw from membership in a Federal reserve bank prior to the expiration of six months from the date of the written notice of its intention to withdraw: *Provided, however*, That no Federal reserve bank shall, except under express authority of the Board of Governors of the Federal Reserve System, cancel within the same calendar year more than 25 per centum of its capital stock for the purpose of effecting voluntary withdrawals during that year. All such applications shall be dealt with in the order in which they are filed with the board. Whenever a member bank shall surrender its stock holdings in a Federal reserve bank, or shall be ordered to do so by the Board of Governors of the Federal Reserve System, under authority of law, all of its rights and privileges as a member bank shall thereupon cease and determine, and after due provision has been made for any indebtedness due or to become due to the Federal reserve bank it shall be entitled to a refund of its cash-paid subscription with interest at the rate of one-half of 1 per centum per month from date of last dividend, if earned, the amount refunded in no event to exceed the book value of the stock at that time, and shall likewise be entitled to repayment of deposits and of any other balance due from the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 233; amended Apr. 17,

1930, ch. 175, 46 Stat. 170; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the tenth par. of section 9 of act Dec. 23, 1913, as amended. The tenth par. constituted the eighth par. of section 9 in 1917 (40 Stat. 232), became the ninth par. in 1927 (44 Stat. 1229), and became the tenth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1930—Act Apr. 17, 1930, amended part of section preceding second proviso.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 329. Capital stock required as condition precedent to membership

No applying bank shall be admitted to membership unless it possesses capital stock and surplus which, in the judgment of the Board of Governors of the Federal Reserve System, are adequate in relation to the character and condition of its assets and to its existing and prospective deposit liabilities and other corporate responsibilities: *Provided*, That no bank engaged in the business of receiving deposits other than trust funds, which does not possess capital stock and surplus in an amount equal to that which would be required for the establishment of a national banking association in the place in which it is located, shall be admitted to membership unless it is, or has been, approved for deposit insurance under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The capital stock of a State member bank shall not be reduced except with the prior consent of the Board.

(Dec. 23, 1913, ch. 6, § 9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 234; Mar. 4, 1923, ch. 252, title IV, § 401, 42 Stat. 1478; June 16, 1933, ch. 89, § 17(b), 48 Stat. 185; July 15, 1952, ch. 753, § 1, 66 Stat. 633.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in text, is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section is comprised of the eleventh par. of section 9 of act Dec. 23, 1913, as amended. The eleventh par. constituted the ninth par. of section 9 in 1917 (40 Stat. 232), became the tenth par. in 1927 (44 Stat. 1229), and became the eleventh par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1952—Act July 15, 1952, vested in Board of Governors discretion with respect to admission of State banks to membership.

1933—Act June 16, 1933, dropped alternative method of meeting the capital requirement and inserted proviso.

§ 329a. Omitted

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, § 9 (par.), as added Aug. 23, 1935, ch. 614, title II, § 202, 49 Stat. 704, related

to waiver of the requirements of sections 321 to 338 of this title for admission to membership in the case of a bank which was required to become a member of the Federal Reserve System under a former provision of subsection (y) of former section 264 of this title, which provision was repealed by act June 20, 1939, ch. 214, § 2, 53 Stat. 842.

This section was based on the twelfth par. of section 9 of act Dec. 23, 1913, as amended. The twelfth par. constituted the eleventh par. of section 9 when added in 1935, and became the twelfth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

§ 330. Laws applicable on becoming members; discounts for State banks

Banks becoming members of the Federal reserve system under authority of this subchapter shall be subject to the provisions of said sections and to those of this chapter which relate specifically to member banks, but shall not be subject to examination under the provisions of sections 481 and 482 of this title. Subject to the provisions of this chapter and to the regulations of the board made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks, except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 1831a of this title. No Federal reserve bank shall be permitted to discount for any State bank or trust company notes, drafts, or bills of exchange of any one borrower who is liable for borrowed money to such State bank or trust company in an amount greater than that which could be borrowed lawfully from such State bank or trust company were it a national banking association. The Federal reserve bank, as a condition of the discount of notes, drafts, and bills of exchange for such State bank or trust company, shall require a certificate or guaranty to the effect that the borrower is not liable to such bank in excess of the amount provided by this subchapter, and will not be permitted to become liable in excess of this amount while such notes, drafts, or bills of exchange are under discount with the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 234; amended July 1, 1922, ch. 274, 42 Stat. 821; Dec. 19, 1991, Pub. L. 102-242, title III, § 303(b), 105 Stat. 2353.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the thirteenth par. of section 9 of act Dec. 23, 1913, as amended. The thirteenth par. constituted the tenth par. of section 9 in 1917 (40 Stat. 232), became the eleventh par. in 1927 (44 Stat. 1229), became the twelfth par. in 1935 (49 Stat. 704), and became the thirteenth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under sections 321 and 329 of this title.

AMENDMENTS

1991—Pub. L. 102-242 substituted "except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 1831a of this title. No Federal reserve bank" for "Provided, however, That no Federal reserve bank".

§ 331. Certifying checks on State banks admitted as members

It shall be unlawful for any officer, clerk, or agent of any bank admitted to membership under authority of this subchapter, to certify any check drawn upon such bank unless the person or company drawing the check has on deposit therewith at the time such check is certified an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against such bank, but the act of any such officer, clerk, or agent in violation of this subchapter, may subject such bank to a forfeiture of its membership in the Federal reserve system upon hearing by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 234; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the fourteenth par. of section 9 of act Dec. 23, 1913, as amended. The fourteenth par. constituted the eleventh par. of section 9 in 1917 (40 Stat. 232), became the twelfth par. in 1927 (44 Stat. 1229), became the thirteenth par. in 1935 (49 Stat. 704), and became the fourteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 332. Depositories of public money; financial agents; security required

All banks or trust companies incorporated by special law or organized under the general laws of any State, which are members of the Federal reserve system, when designated for that purpose by the Secretary of the Treasury, shall be depositories of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositories of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require of the banks and trust companies thus designated satisfactory security, by the deposit of United States bonds or otherwise, for the safe keeping and prompt payment of the public money deposited with them and for the faithful performance of their duties as financial agents of the Government.

(Dec. 23, 1913, ch. 6, §9 (par.), as added May 7, 1928, ch. 507, 45 Stat. 492.)

CODIFICATION

Section is comprised of the fifteenth par. of section 9 of act Dec. 23, 1913, as amended. The fifteenth par. constituted the thirteenth par. of section 9 in 1928 (45 Stat. 492), became the fourteenth par. in 1935 (49 Stat. 704), and became the fifteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

§ 333. Mutual savings banks; application and admission to membership in Federal Reserve System

Any mutual savings bank having no capital stock (including any other banking institution the capital of which consists of weekly or other time deposits which are segregated from all other deposits and are regarded as capital stock for the purposes of taxation and the declaration of dividends), but having surplus and undivided profits not less than the amount of capital required for the organization of a national bank in the same place, may apply for and be admitted to membership in the Federal Reserve System in the same manner and subject to the same provisions of law as State banks and trust companies, except that any such savings bank shall subscribe for capital stock of the Federal reserve bank in an amount equal to six-tenths of 1 per centum of its total deposit liabilities as shown by the most recent report of examination of such savings bank preceding its admission to membership. Thereafter such subscription shall be adjusted semiannually on the same percentage basis in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. If any such mutual savings bank applying for membership is not permitted by the laws under which it was organized to purchase stock in a Federal reserve bank, it shall, upon admission to the system, deposit with the Federal reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock. Thereafter such deposit shall be adjusted semiannually in the same manner as subscriptions for stock. Such deposits shall be subject to the same conditions with respect to repayment as amounts paid upon subscriptions to capital stock by other member banks and the Federal reserve bank shall pay interest thereon at the same rate as dividends are actually paid on outstanding shares of stock of such Federal reserve bank. If the laws under which any such savings bank was organized be amended so as to authorize mutual savings banks to subscribe for Federal reserve bank stock, such savings bank shall thereupon subscribe for the appropriate amount of stock in the Federal reserve bank, and the deposit hereinbefore provided for in lieu of payment upon capital stock shall be applied upon such subscription. If the laws under which any such savings bank was organized be not amended at the next session of the legislature following the admission of such savings bank to membership so as to authorize mutual savings banks to purchase Federal reserve bank stock, or if such laws be so amended and such bank fail within six months thereafter to purchase such

stock, all of its rights and privileges as a member bank shall be forfeited and its membership in the Federal Reserve System shall be terminated in the manner prescribed in this subchapter with respect to State member banks and trust companies. Each such mutual savings bank shall comply with all the provisions of law applicable to State member banks and trust companies, with the regulations of the Board of Governors of the Federal Reserve System and with the conditions of membership prescribed for such savings bank at the time of admission to membership, except as otherwise hereinbefore provided with respect to capital stock.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 164; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the sixteenth par. of section 9 of act Dec. 23, 1913, as amended. The sixteenth par. constituted the fourteenth par. of section 9 in 1933 (48 Stat. 164), became the fifteenth par. in 1935 (49 Stat. 704), and became the sixteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 334. Reports from affiliates; penalty for failure to furnish

Each bank admitted to membership under this subchapter shall obtain from each of its affiliates other than member banks and furnish to the Federal reserve bank of its district and to the Board of Governors of the Federal Reserve System not less than three reports during each year. Such reports shall be in such form as the Board of Governors of the Federal Reserve System may prescribe, shall be verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, and shall disclose the information hereinafter provided for as of dates identical with those fixed by the Board of Governors of the Federal Reserve System for reports of the condition of the affiliated member bank. Each such report of an affiliate shall be transmitted as herein provided at the same time as the corresponding report of the affiliated member bank, except that the Board of Governors of the Federal Reserve System may, in its discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Board of Governors of the Federal Reserve System shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the board to inform itself as to the effect of such relations upon the affairs of such bank. The reports of such affiliates shall be published by the bank under the same conditions as govern its own condition reports.

Any such affiliated member bank may be required to obtain from any such affiliate such additional reports as in the opinion of its Federal reserve bank or the Board of Governors of the Federal Reserve System may be necessary in order to obtain a full and complete knowledge of the condition of the affiliated member bank. Such additional reports shall be transmitted to the Federal reserve bank and the Board of Governors of the Federal Reserve System and shall be in such form as the Board of Governors of the Federal Reserve System may prescribe.

Any such affiliated member bank which fails to obtain from any of its affiliates and furnish any report provided for by the two preceding paragraphs of this section shall be subject to a penalty of \$100 for each day during which such failure continues, which, by direction of the Board of Governors of the Federal Reserve System, may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(Dec. 23, 1913, ch. 6, § 9 (pars.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; July 1, 1966, Pub. L. 89-485, § 13(f), 80 Stat. 243.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§ 321 et seq.).

CODIFICATION

Section is comprised of the seventeenth to nineteenth pars. of act Dec. 23, 1913, as amended. These pars. constituted pars. fifteen to seventeen of section 9 in 1933 (48 Stat. 165), became pars. sixteen to eighteen in 1935 (49 Stat. 704), and became pars. seventeen to nineteen in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

AMENDMENTS

1966—Pub. L. 89-485 struck out last sentence of third par. stating that term "affiliate" shall include holding company affiliates as well as other affiliates for the purposes of such par. and preceding two pars.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 335. Dealing in investment securities; limitations and conditions

State member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks under paragraph "Seventh" of section 24 of this title.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165.)

CODIFICATION

Section is comprised of the twentieth par. of section 9 of act Dec. 23, 1913, as amended. The twentieth par. constituted the eighteenth par. of section 9 in 1933 (48 Stat. 16), became the nineteenth par. in 1935 (49 Stat. 704), and became the twentieth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 336. Certificates of stock; representation of stock of other corporations

After August 23, 1935, no certificate evidencing the stock of any State member bank shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such member bank, nor shall the ownership, sale, or transfer of any certificate representing the stock of any State member bank be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such member bank: *Provided*, That this subchapter shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a State member bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165; amended Aug. 23, 1935, ch. 614, title III, § 310(b), 49 Stat. 710.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§ 321 et seq.).

CODIFICATION

Section is comprised of the twenty-first par. of section 9 of act Dec. 23, 1913, as amended. The twenty-first par. constituted the nineteenth par. of section 9 in 1933 (48 Stat. 165), became the twentieth par. in 1935 (49 Stat. 704), and became the twenty-first par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

§ 337. Repealed. Pub. L. 89-485, § 13(g), July 1, 1966, 80 Stat. 243

Section, act Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 166, required agreements of State member banks with holding company affiliates to be subject to voting restrictions and to provide for forfeiture of membership on failure to file agreement.

This section was comprised of the twenty-second par. of section 9 of act Dec. 23, 1913, as amended. The twenty-second par. constituted the twentieth par. of section 9 when added in 1933, became the twenty-first par. in 1935 (49 Stat. 704), and became the twenty-second par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

§ 338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense

In connection with examinations of State member banks, examiners selected or approved by the Board of Governors of the Federal Reserve System shall make such examinations of

the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. The expense of examination of affiliates of any State member bank may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against such bank and, when so assessed, shall be paid by such bank. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, or in the event of the refusal to pay any expenses so assessed, the Board of Governors of the Federal Reserve System may, in its discretion, require any or all State member banks affiliated with such affiliate to surrender their stock in the Federal Reserve bank and to forfeit all rights and privileges of membership in the Federal Reserve System, as provided in this subchapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 166; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this section”, meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§ 321 et seq.).

CODIFICATION

Section is comprised of the twenty-third par. of section 9 of act Dec. 23, 1913, as amended. The twenty-third par. constituted the twenty-first par. of section 9 in 1933 (48 Stat. 166), became the twenty-second par. in 1935 (49 Stat. 704), and became the twenty-third par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 338a. Investments to promote public welfare and community development; limitation on investments

State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and¹ bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized. In

no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added Oct. 23, 1992, Pub. L. 102-485, § 6(b), 106 Stat. 2774.)

CODIFICATION

Section is comprised of the twenty-fourth par. of section 9 of act Dec. 23, 1913, as amended. For further details, see Codification note set out under section 321 of this title.

§ 339. Participation by State member banks in lotteries and related activities

(a) Prohibited activities

A State member bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery;
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State member bank may not permit—

- (1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

- (1) The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.
- (2) The term “lottery” includes any arrangement whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

- (A) a random selection;
- (B) a game, race, or contest; or
- (C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

- (3) The term “lottery ticket” includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State member bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other

¹ So in original. Probably should be “and a”.

lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Dec. 13, 1913, ch. 6, §9A, as added Dec. 15, 1967, Pub. L. 90-203, §2, 81 Stat. 609.)

CODIFICATION

Section was enacted as section 9A of act Dec. 13, 1913, and not as part of section 9 of such act which comprises this subchapter.

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

**SUBCHAPTER IX—POWERS AND DUTIES OF
FEDERAL RESERVE BANKS**

§ 341. General enumeration of powers

Upon the filing of the organization certificate with the Comptroller of the Currency a Federal reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power—

First. To adopt and use a corporate seal.

Second. To have succession after February 25, 1927, until dissolved by Act of Congress or until forfeiture of franchise for violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this chapter, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years; and all other executive officers and all employees of the bank shall be directly responsible to him. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers

specifically granted by the provisions of this chapter and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this chapter.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Secretary of the Treasury circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

But no Federal reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 254; Feb. 25, 1927, ch. 191, §18, 44 Stat. 1234; Aug. 23, 1935, ch. 614, title II, §201, 49 Stat. 703; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(g)(1), 108 Stat. 2293.)

REFERENCES IN TEXT

This chapter, referred to in the Fifth, Seventh, and closing pars., was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of pars. 4 and 5 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

AMENDMENTS

1994—Pub. L. 103-325 amended eighth power by substituting “Secretary of the Treasury” for “Comptroller of the Currency”.

1935—Act Aug. 23, 1935, amended fifth power.

1927—Act Feb. 25, 1927, amended second power.

EFFECTIVE DATE OF 1935 AMENDMENT

Section 201 of act Aug. 23, 1935, provided that the amendment made by that section is effective Mar. 1, 1936.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note under section 121 of this title.

CROSS REFERENCES

Jurisdiction of suits to which a Federal reserve bank is a party, see section 632 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 342. Deposits; exchange and collection; member and nonmember banks or other depository institutions; charges

Any Federal Reserve bank may receive from any of its member banks, or other depository in-

stitutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation or other items, and also, for collection, maturing notes and bills; or, solely for purposes of exchange or of collection may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal Reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate: *Provided further*, That nothing in this or any other section of this chapter shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

(Dec. 23, 1913, ch. 6, § 13 (par.), 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, § 4, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Mar. 31, 1980, Pub. L. 96-221, title I, § 105(a), 94 Stat. 139.)

CODIFICATION

Section is comprised of the first par. of section 13 of act Dec. 23, 1913, as amended in 1916 (39 Stat. 752). The second to eighth and tenth to fourteenth pars. of section 13 (as now constituted) are classified to sections 92, 343 to 347, 347c, 347d, 361, 372, and 373 of this title.

For decision by U.S. Supreme Court that, despite faulty placement of quotation marks, act Sept. 7, 1916, placed within section 13 of act Dec. 23, 1913, each of the ten pars. located between the phrases that introduced the amendments to sections 13 and 14 of said act, that only the seventh par. (rather than seventh to tenth pars.) comprised the amended R.S. § 5202, and that section 20 of act Apr. 5, 1918 (40 Stat. 512) (which amended R.S. § 5202 comprised of a single par.), did not amend section 13 of said act so as to repeal the eighth to tenth pars., see *United States National Bank of Oregon v. Independent Insurance Agents of America, Inc.*, et al., 508 U.S. —, 113 S.Ct. 2173, 124 L.Ed. 2d 402 (1993). As the result of subsequent amendments, such seventh to tenth pars. of section 13 now constitute the ninth to twelfth pars. The ninth par. amended former section 82 of this title, and the tenth to twelfth pars. are classified to sections 361, 92, and 373, respectively, of this title.

AMENDMENTS

1980—Pub. L. 96-221 inserted references to other depository institutions and provisions respecting applica-

bility to other items presented for payment, and substituted provisions setting forth items to constitute required balance to include items in transit, Federal Reserve bank services, and other appropriate factors, for provisions requiring the balance to be sufficient to offset items in transit held for the account of the bank.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 343. Discount of obligations arising out of actual commercial transactions

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this chapter. Nothing in this chapter contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than ninety days, exclusive of grace.

In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 357 of this title, to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange for an individual or a partnership or corporation the Federal reserve bank

shall obtain evidence that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All such discounts for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

(Dec. 23, 1913, ch. 6, § 13 (pars.), 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, § 402, 42 Stat. 1478; July 21, 1932, ch. 520, § 210, 47 Stat. 715; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 322, 49 Stat. 704, 714; Dec. 19, 1991, Pub. L. 102-242, title IV, § 473, 105 Stat. 2386.)

CODIFICATION

Section is comprised of the second and third pars. of section 13 of act Dec. 23, 1913, as amended. The act of Mar. 4, 1923, split the second par. of section 13, as amended in 1916 (39 Stat. 752), into two pars., the first of which constitutes the first par. of this section and the second as section 344 of this title. The act of July 21, 1932, added the second par. of this section which was designated to follow the second par. of section 13. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

1991—Pub. L. 102-242 struck out “of the kinds and maturities made eligible for discount for member banks under other provisions of this chapter” after first reference to “bills of exchange” in second par.

1935—Act Aug. 23, 1935, § 322, substituted words immediately preceding proviso for “indorsed and otherwise secured to the satisfaction of the Federal reserve bank.”

1932—Act July 21, 1932, added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Notes on loans for construction of residential or farm buildings eligible for discount under this section, see section 371 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 371, 412, 461 of this title.

§ 344. Discount or purchase of bills to finance agricultural shipments

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided*, That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made with reasonable promptness after the arrival of

such staples at their destination: *Provided further*, That no such bill shall in any event be held by or for the account of a Federal reserve bank for a period in excess of ninety days. In discounting such bills Federal reserve banks may compute the interest to be deducted on the basis of the estimated life of each bill and adjust the discount after payment of such bills to conform to the actual life thereof.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Mar. 4, 1923, ch. 252, title IV, § 402, 42 Stat. 1479; amended May 29, 1928, ch. 884, 45 Stat. 975; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of the fourth par. of section 13 of act Dec. 23, 1913, as amended. The act of Mar. 4, 1923, split the second par. of section 13, as amended in 1916 (39 Stat. 752), into two pars., the first of which constitutes the first par. of section 343 of this title and the second as this section, making it the third par. of section 13. However, the third par. became the fourth par. when act July 21, 1932, added a new par. to follow the second par. For further details, see Codification note set out under section 343 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

1928—Act May 29, 1928, amended part of first sentence preceding proviso.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 345. Rediscount of notes, drafts, and bills for member banks; limitation of amount

The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, indorser, drawer, or guarantor, rediscounted for any member bank, shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national banking association under the terms of section 84 of this title: *Provided, however*, That nothing in this section shall be construed to change the character or class of paper now eligible for rediscount by Federal reserve banks.

(Dec. 23, 1913, ch. 6, § 13 (par.), 38 Stat. 264; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; Apr. 12, 1930, ch. 140, 46 Stat. 162.)

CODIFICATION

Section is comprised of the fifth par. of section 13 of act Dec. 23, 1913, as amended. The fifth par. constituted the third par. of section 13 in 1916 (39 Stat. 752), became the fourth par. in 1923 (42 Stat. 1478), and became the fifth par. in 1932 (47 Stat. 715). For further details, see Codification notes set out under sections 343 and 344 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

1930—Act Apr. 12, 1930, among other changes, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 346. Discount of acceptances

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than ninety days' sight, exclusive of days of grace, and which are indorsed by at least one member bank: *Provided*, That such acceptances if drawn for an agricultural purpose and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight exclusive of days of grace.

(Dec. 23, 1913, ch. 6, § 13 (par.), 38 Stat. 264; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, § 403, 42 Stat. 1479.)

REFERENCES IN TEXT

Words "hereinafter described" are from the sixth par. of section 13 of the Federal Reserve Act, see Codification note below. Reference could be to acceptances described in the remaining paragraphs of section 13, which are contained in sections 82, 347, 347c, and 372 of this title, or to acceptances described in subsequent sections of the Federal Reserve Act, sections 14 et seq. of act Dec. 23, 1913.

CODIFICATION

Section is comprised of the sixth par. of section 13 of act Dec. 23, 1913, as amended. The sixth par. constituted the fourth par. of section 13 in 1916 (39 Stat. 752), became the fifth par. in 1923 (42 Stat. 1478), and became the sixth par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 343 and 344 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 347. Advances to member banks on their notes

Any Federal reserve bank may make advances for periods not exceeding fifteen days to its member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness, or Treasury bills of the United States, or by the deposit or pledge of debentures or other such obligations of Federal intermediate credit banks which are eligible for purchase by Federal reserve banks under section 350 of this title, or by the deposit or pledge of bonds issued under the provisions of subsection (c) of section 1463¹ of this title; and any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this chapter or secured by such obligations as are eligible for purchase under section 355 of this title. All such advances shall be made

at rates to be established by such Federal reserve banks, such rates to be subject to the review and determination of the Board of Governors of the Federal Reserve System. If any member bank to which any such advance has been made shall, during the life or continuance of such advance, and despite an official warning of the reserve bank of the district or of the Board of Governors of the Federal Reserve System to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks, bonds, or other investment securities (except obligations of the United States) such advance shall be deemed immediately due and payable, and such member bank shall be ineligible as a borrower at the reserve bank of the district under the provisions of this section for such period as the Board of Governors of the Federal Reserve System shall determine: *Provided*, That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this section.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 753; amended May 19, 1932, ch. 191, § 6, 47 Stat. 160; May 12, 1933, ch. 25, title II, § 28, 48 Stat. 46; June 16, 1933, ch. 89, § 9, 48 Stat. 180; Jan. 31, 1934, ch. 7, § 16(a), 48 Stat. 348; Apr. 27, 1934, ch. 168, § 7(a), 48 Stat. 646; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Oct. 4, 1961, Pub. L. 87-353, § 3(c), 75 Stat. 773; Sept. 21, 1968, Pub. L. 90-505, § 3(a), 82 Stat. 856.)

REFERENCES IN TEXT

Section 1463 of this title, referred to in text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

CODIFICATION

Section is comprised of the eighth par. of section 13 of act Dec. 23, 1913, as amended. The eighth par. constituted the sixth par. of section 13 in 1916 (39 Stat. 752, 753), became the seventh par. in 1923 (42 Stat. 1478), and became the eighth par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 343 and 344 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

1968—Pub. L. 90-505 added promissory notes of members banks secured by such obligations as are eligible for purchase under section 355 of this title to the list of types of promissory notes of member banks on which the Federal reserve bank may make advances for periods not exceeding 90 days.

1961—Pub. L. 87-353 struck out provision authorizing any Federal reserve bank to make advances to its member banks on their promissory notes secured by the deposit or pledge of Federal Farm Mortgage Corporation bonds issued under the Federal Farm Mortgage Corporation Act.

1934—Act Apr. 27, 1934, inserted first phrase preceding the semicolon in first sentence.

Act Jan. 31, 1934, inserted second phrase preceding the semicolon in first sentence.

1933—Act June 16, 1933, amended section generally.

Act May 12, 1933, added Federal farm-loan bonds as security for advances.

¹ See References in Text note below.

1932—Act May 19, 1932, inserted clause in first sentence which begins “or by the deposit or pledge of debentures”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 347a. Advances to member bank groups; inadequate amounts of eligible and acceptable assets; liability of individual banks in group; distribution of loans among banks of group; rate of interest; notes accepted for advances as collateral security for Federal reserve notes; foreign obligations as security for advances

Upon receiving the consent of not less than five members of the Board of Governors of the Federal Reserve System, any Federal reserve bank may make advances, in such amount as the board of directors of such Federal reserve bank may determine, to groups of five or more member banks within its district, a majority of them independently owned and controlled, upon their time or demand promissory notes, provided the bank or banks which receive the proceeds of such advances as herein provided have no adequate amounts of eligible and acceptable assets available to enable such bank or banks to obtain sufficient credit accommodations from the Federal reserve bank through rediscounts or advances other than as provided in section 347b¹ of this title. The liability of the individual banks in each group must be limited to such proportion of the total amount advanced to such group as the deposit liability of the respective banks bears to the aggregate deposit liability of all banks in such group, but such advances may be made to a lesser number of such member banks if the aggregate amount of their deposit liability constitutes at least 10 per centum of the entire deposit liability of the member banks within such district. Such banks shall be authorized to distribute the proceeds of such loans to such of their number and in such amount as they may agree upon, but before so doing they shall require such recipient banks to deposit with a suitable trustee, representing the entire group, their individual notes made in favor of the group protected by such collateral security as may be agreed upon. Any Federal reserve bank making such advance shall charge interest or discount thereon at a rate not less than 1 per centum above its discount rate in effect at the time of making such advance. No such note upon which advances are made by a Federal reserve bank under this section shall be eligible under section 412 of this title as collateral security for Federal reserve notes.

No obligations of any foreign government, individual, partnership, association, or corporation organized under the laws thereof shall be eligible as collateral security for advances under this section.

Member banks are authorized to obligate themselves in accordance with the provisions of this section.

(Dec. 23, 1913, ch. 6, §10A, formerly §10(a), as added Feb. 27, 1932, ch. 58, §1, 47 Stat. 56; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §10A, Dec. 19, 1991, Pub. L. 102-242, title I, §142(a)(1), 105 Stat. 2279.)

REFERENCES IN TEXT

Section 347b of this title, referred to in first par., was in the original a reference to section 10(b), meaning section 10(b) of the Federal Reserve Act. Section 10(b) of that Act was renumbered section 10B by Pub. L. 102-242, title I, §142(a)(2), Dec. 19, 1991, 105 Stat. 2279, without a corresponding amendment to this section.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 347b. Advances to individual member banks on time or demand notes; maturities; time notes secured by mortgage loans covering one-to-four family residences

(a) In general

Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank.

Notwithstanding the foregoing, any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time notes having such maturities as the Board may prescribe and which are secured by mortgage loans covering a one-to-four family residence. Such advances shall bear interest at a rate equal to the lowest discount rate in effect at such Federal Reserve bank on the date of such note.

(b) Limitations on advances

(1) Limitation on extended periods

Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

(2) Viability exception

(A) In general

If—

(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

¹ See References in Text note below.

(B) Extensions of period

The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

(C) Authority to issue a certificate of viability may not be delegated

The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

(D) Extended advances subject to paragraph (3)

Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

- (i) such institution as critically undercapitalized under paragraph (3); and
- (ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

(3) Advances to critically undercapitalized depository institutions**(A) Liability for increased loss**

Notwithstanding any other provision of this section, if—

- (i) in the case of any critically undercapitalized depository institution—

(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

(II) any new advance is made to such institution under this section after the end of such period; and

- (ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

(B) Limitation on excess loss

The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

- (i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.
- (ii) The interest received on the increases in the amount of advances made

after the 5-day period referred to in subparagraph (A).

(C) Federal Reserve to pay obligation

The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

(D) Report

The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

(4) No obligation to make advances

A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this chapter to any depository institution.

(5) Definitions**(A) Appropriate Federal banking agency**

The term “appropriate Federal banking agency” has the same meaning as in section 1813 of this title.

(B) Critically undercapitalized

The term “critically undercapitalized” has the same meaning as in section 1831o of this title.

(C) Depository institution

The term “depository institution” has the same meaning as in section 1813 of this title.

(D) Undercapitalized depository institution

The term “undercapitalized depository institution” means any depository institution which—

- (i) is undercapitalized, as defined in section 1831o of this title; or
- (ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

(E) Viable

A depository institution is “viable” if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

- (i) is not critically undercapitalized;
- (ii) is not expected to become critically undercapitalized; and
- (iii) is not expected to be placed in conservatorship or receivership.

(Dec. 23, 1913, ch. 6, §10B, formerly §10(b), as added Feb. 27, 1932, ch. 58, §2, 47 Stat. 56; amended Feb. 3, 1933, ch. 34, 47 Stat. 794; Mar. 9, 1933, ch. 1, title IV, §402, 48 Stat. 7; Aug. 23, 1935, ch. 614, title II, §204, 49 Stat. 705; Oct. 18, 1974, Pub. L. 93-449, §5, 88 Stat. 1368; Mar. 31, 1980, Pub. L. 96-221, title I, §106, 94 Stat. 140; renumbered §10B and amended Dec. 19, 1991, Pub. L. 102-242, title I, §142(a)(2), (b), 105 Stat. 2279.)

AMENDMENTS

1991—Pub. L. 102-242, §142(b), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1980—Pub. L. 96-221 struck out second sentence of first par. relating to interest on notes under this section.

1974—Pub. L. 93-449 inserted provisions relating to advances on time notes secured by mortgage loans covering one-to-four family residences.

1935—Act Aug. 23, 1935, struck out provision prescribing termination date of section.

1933—Act Mar. 9, 1933, struck out proviso which extended applicability to member banks regardless of their capital, and empowered President to extend termination date one year beyond March 3, 1934.

Act Feb. 3, 1933, extended termination date from “March 3, 1933” to “March 3, 1934”.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 142(d) of Pub. L. 102-242 provided that: “The amendment made by subsection (b) [amending this section] shall take effect at the end of the 2-year period beginning on the date of enactment of this Act [Dec. 19, 1991].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

EXPIRATION

Proclamation No. 2076, Feb. 16, 1934, 48 Stat. 1734, extended section to Mar. 3, 1935. See 1935 amendment note above.

CROSS REFERENCES

Right to amend, separability of provisions, of act Mar. 9, 1933, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347a, 463, 1831r of this title.

§ 347c. Advances to individuals, partnerships, and corporations; security; interest rate

Subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership, or corporation on the promissory notes of such individual, partnership, or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Mar. 9, 1933, ch. 1, title IV, § 403, 48 Stat. 7; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Sept. 21, 1968, Pub. L. 90-505, § 3(b), 82 Stat. 856.)

CODIFICATION

Section is comprised of the thirteenth par. of section 13 of act Dec. 23, 1913, as added by act Mar. 9, 1933. For additional details concerning the enactment and numbering of the first twelve and fourteenth pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347d, 361, 372, and 373 of this title.

AMENDMENTS

1968—Pub. L. 90-505 added promissory notes secured by any obligation which is a direct obligation of, or

fully guaranteed as to principal and interest by, any agency of the United States to the list of types of promissory notes on which federal reserve banks may make advances to individuals, partnerships, and corporations.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Right to amend, separability of provisions, of act Mar. 9, 1933, see section 212 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 347d. Transactions between Federal Reserve banks and branch or agency of foreign bank; matters considered

Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 3105 of this title. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 3105 of this title. For the purposes of this paragraph, the terms “branch”, “agency”, and “foreign bank” shall have the same meanings assigned to them in section 3101 of this title.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 17, 1978, Pub. L. 95-369, § 7(b), 92 Stat. 621.)

CODIFICATION

Section is comprised of the fourteenth (last) par. of section 13 of act Dec. 23, 1913, as added by act Sept. 17, 1978. For additional details concerning the enactment and numbering of the first thirteen pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347c, 361, 372, and 373 of this title.

PRIOR PROVISIONS

A prior section 347d, act Mar. 9, 1933, ch. 1, § 404, as added Mar. 24, 1933, ch. 8, § 1, 48 Stat. 20, which related to direct loans to State banks and trust companies, was omitted from the Code as terminated since by its own terms, it was effective for only one year following date of its enactment, Mar. 24, 1933.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 348. Discount of obligations given for agricultural purposes or based upon livestock; collateral security for Federal reserve notes

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its

own indorsement exclusively, any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes, drafts, and bills of exchange issued or drawn for an agricultural purpose, or based upon livestock, and having a maturity, at the time of discount, exclusive of days of grace, not exceeding nine months, and such notes, drafts, and bills of exchange may be offered as collateral security for the issuance of Federal reserve notes under the provisions of section 16 of this Act: *Provided*, That notes, drafts, and bills of exchange with maturities in excess of six months shall not be eligible as a basis for the issuance of Federal reserve notes unless secured by warehouse receipts or other such negotiable documents conveying or securing title to readily marketable staple agricultural products or by chattel mortgage upon livestock which is being fattened for market.

(Dec. 23, 1913, ch. 6, § 13A (par.), formerly § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 13A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(1), 105 Stat. 2281.)

REFERENCES IN TEXT

Section 16 of this Act, referred to in text, means section 16 of act Dec. 23, 1913. For classification of section 16 to this title, see Codification note set out under section 411 of this title.

CODIFICATION

Section is comprised of first par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 2 to 5 of section 13A are set out as sections 349 to 352 of this title, respectively.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Rediscount of notes, drafts, and bills mentioned in this section for intermediate credit banks, see section 349 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 349, 351 of this title.

§ 348a. Transactions with foreign banks; supervision of Board of Governors of the Federal Reserve System

The Board of Governors of the Federal Reserve System shall exercise special supervision over all relationships and transactions of any kind entered into by any Federal reserve bank with any foreign bank or banker, or with any group of foreign banks or bankers, and all such relationships and transactions shall be subject to such regulations, conditions, and limitations as the Board may prescribe. No officer or other representative of any Federal reserve bank shall conduct negotiations of any kind with the officers or representatives of any foreign bank or banker without first obtaining the permission of the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal

Reserve System shall have the right, in its discretion, to be represented in any conference or negotiations by such representative or representatives as the Board may designate. A full report of all conferences or negotiations, and all understandings or agreements arrived at or transactions agreed upon, and all other material facts appertaining to such conferences or negotiations, shall be filed with the Board of Governors of the Federal Reserve System in writing by a duly authorized officer of each Federal reserve bank which shall have participated in such conferences or negotiations.

(Dec. 23, 1913, ch. 6, § 14(g), as added June 16, 1933, ch. 89, § 10, 48 Stat. 181; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 349. Rediscount for intermediate credit banks of obligations given for agricultural purposes; discount of notes made pursuant to section 1031

Any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, rediscount such notes, drafts, and bills mentioned in section 348 of this title for any Federal intermediate credit bank, except that no Federal reserve bank shall rediscount for a Federal intermediate credit bank any such note or obligation which bears the indorsement of a nonmember State bank or trust company which is eligible for membership in the Federal reserve system in accordance with subchapter VIII of this chapter. Any Federal reserve bank may also, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes payable to and bearing the indorsement of any Federal intermediate credit bank covering loans or advances made by such bank pursuant to the provisions of section 1031¹ of this title which have maturities at the time of discount of not more than nine months, exclusive of days of grace, and which are secured by notes, drafts, or bills of exchange eligible for rediscount by Federal Reserve banks.

(Dec. 23, 1913, ch. 6, § 13A (par.), formerly § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479; amended May 19, 1932, ch. 191, § 5, 47 Stat. 160; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 13A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(1), 105 Stat. 2281.)

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in text, was in the original "section 9 of this Act", meaning section 9 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. Section 9 of the act is classified generally to subchapter VIII (§ 321 et seq.) of this chapter.

¹ See References in Text note below.

Section 1031 of this title, referred to in text, was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. See section 2074 of this title.

CODIFICATION

Section is comprised of second par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1, 3 to 5 of section 13A are set out as sections 348, 349 to 352 of this title, respectively.

AMENDMENTS

1932—Act May 19, 1932, inserted last sentence.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 350. Purchase and sale of debentures and like obligations of intermediate credit banks and agricultural credit corporations

Any Federal reserve bank may also buy and sell debentures and other such obligations issued by a Federal intermediate credit bank or by a national agricultural credit corporation, but only to the same extent as and subject to the same limitations as those upon which it may buy and sell bonds issued under title I of the Federal Farm Loan Act.

(Dec. 23, 1913, ch. 6, § 13A (par.), formerly § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1480; renumbered § 13A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(1), 105 Stat. 2281.)

REFERENCES IN TEXT

Title I of the Federal Farm Loan Act, referred to in text, is title I of act July 17, 1916, ch. 245, 39 Stat. 360. Title I was classified to chapter 7 (§ 641 et seq.) of this title, and was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

CODIFICATION

Section is comprised of third par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1, 2, 4 and 5 of section 13A are set out as sections 348, 349, 351 and 352 of this title, respectively.

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§ 201-217, 42 Stat. 1461, authorized creation of national agricultural credit corporations, prior to repeal by Pub. L. 86-230, Sept. 18, 1959, § 24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, § 77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

CROSS REFERENCES

Advances to member banks on their notes, see section 347 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347, 351 of this title.

§ 351. Obligations of cooperative marketing association as issued or drawn for agricultural purposes

Notes, drafts, bills of exchange, or acceptances issued or drawn by cooperative marketing associations composed of producers of agricultural

products shall be deemed to have been issued or drawn for an agricultural purpose, within the meaning of sections 348 and 349 to 352 of this title, if the proceeds thereof have been or are to be advanced by such association to any members thereof for an agricultural purpose, or have been or are to be used by such association in making payments to any members thereof on account of agricultural products delivered by such members to the association, or if such proceeds have been or are to be used by such association to meet expenditures incurred or to be incurred by the association in connection with the grading, processing, packing, preparation for market, or marketing of any agricultural product handled by such association for any of its members: *Provided*, That the express enumeration in this section of certain classes of paper of cooperative marketing associations as eligible for rediscount shall not be construed as rendering ineligible any other class of paper of such associations which is now eligible for rediscount.

(Dec. 23, 1913, ch. 6, § 13A (par.), formerly § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1480; renumbered § 13A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(1), 105 Stat. 2281.)

CODIFICATION

Section is comprised of fourth par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1 to 3 and 5 of section 13A are set out as sections 348, 349, 350 and 352 of this title, respectively.

§ 352. Limitation on amount of obligations of certain maturities which may be discounted and rediscounted

The Board of Governors of the Federal Reserve System may, by regulation, limit to a percentage of the assets of a Federal reserve bank the amount of notes, drafts, acceptances, or bills having a maturity in excess of three months, but not exceeding six months, exclusive of days of grace, which may be discounted by such bank, and the amount of notes, drafts, bills, or acceptances having a maturity in excess of six months, but not exceeding nine months, which may be rediscounted by such bank.

(Dec. 23, 1913, ch. 6, § 13A (par.), formerly § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1480; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 13A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(1), 105 Stat. 2281.)

CODIFICATION

Section is comprised of fifth par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1 to 4 of section 13A are set out as sections 348, 349 to 351 of this title, respectively.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 352a. Repealed. Pub. L. 85-699, title VI, § 601, Aug. 21, 1958, 72 Stat. 697

Section, act Dec. 23, 1913, ch. 6, § 13b, as added June 19, 1934, ch. 653, § 1, 48 Stat. 1105; amended Aug. 23, 1935,

ch. 614, title III, §323, 49 Stat. 714, authorized Federal Reserve Banks to make loans to industrial and commercial businesses and to discount or purchase industrial obligations from financial institutions, and created an industrial advisory committee.

EFFECTIVE DATE OF REPEAL

Section 601 of Pub. L. 85-699 provided that the repeal of this section is effective one year after Aug. 21, 1958.

SAVINGS PROVISION

Section 601 of Pub. L. 85-699 provided that the repeal of this section shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under this section.

FUND FOR MANAGEMENT COUNSELING

Section 602(a), (b) of Pub. L. 85-699 provided that:

“(a) Within sixty days after the enactment of this Act [Aug. 21, 1958], each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act [this section]; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b [subsec. (e) of this section] or out of any agreement thereunder.

“(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7(d) of the Small Business Act [section 636(d) of Title 15, Commerce and Trade]. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act [this section] shall be covered into the Treasury as miscellaneous receipts.”

§ 353. Purchase and sale of cable transfers, acceptances and bills

Any Federal reserve bank may, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this chapter made eligible for rediscount, with or without the indorsement of a member bank.

(Dec. 23, 1913, ch. 6, §14 (par.), 38 Stat. 264; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of opening par. of section 14 of act Dec. 23, 1913. Subsecs. (a) to (e) of section 14 and subsec. (f) of section 14, as added Mar. 4, 1923, ch. 252, title IV, §405, 42 Stat. 1480, are set out as sections 354 to 359 of this title, respectively.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 354. Transactions involving gold coin, bullion, and certificates

Every Federal reserve bank shall have power to deal in gold coin and bullion at home or

abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold.

(Dec. 23, 1913, ch. 6, §14(a), 38 Stat. 264.)

CODIFICATION

Section is comprised of subsec. (a) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note set out under section 353 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 355. Purchase and sale of obligations of National, State, and municipal governments; open market operations; purchases and sales from or to United States; maximum aggregate amount of obligations acquired directly from or loaned directly to United States

Every Federal Reserve bank shall have power:

(1) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 1463¹ of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. Notwithstanding any other provision of this chapter, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market.

(2) To buy and sell in the open market, under the direction and regulations of the Federal Open Market Committee, any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States.

(Dec. 23, 1913, ch. 6, §14(b), 38 Stat. 264; Jan. 31, 1934, ch. 7, §16(b), 48 Stat. 348; Apr. 27, 1934, ch. 168, §7(b), 48 Stat. 646; Aug. 23, 1935, ch. 614, title II, §§203(a), 206(a), 49 Stat. 704, 706; Mar. 27, 1942, ch. 199, title IV, §401, 56 Stat. 180; Apr. 28, 1947, ch. 44, 61 Stat. 56; June 30, 1950, ch. 425, 64 Stat. 307; June 23, 1952, ch. 454, 66 Stat. 154; June 29,

¹ See References in Text note below.

1954, ch. 422, 68 Stat. 329; June 25, 1956, ch. 447, 70 Stat. 339; June 30, 1958, Pub. L. 85-476, 72 Stat. 261; July 1, 1960, Pub. L. 86-567, 74 Stat. 295; Oct. 4, 1961, Pub. L. 87-353, §3(d), 75 Stat. 773; June 28, 1962, Pub. L. 87-506, 76 Stat. 112; June 30, 1964, Pub. L. 88-344, 78 Stat. 235; June 30, 1966, Pub. L. 89-484, 80 Stat. 235; Sept. 21, 1966, Pub. L. 89-597, §6, 80 Stat. 825; May 4, 1968, Pub. L. 90-300, 82 Stat. 113; July 31, 1970, Pub. L. 91-360, 84 Stat. 668; July 2, 1971, Pub. L. 92-45, 85 Stat. 100; Aug. 14, 1973, Pub. L. 93-93, 87 Stat. 314; Oct. 28, 1974, Pub. L. 93-495, title I, §109, 88 Stat. 1505; Nov. 12, 1975, Pub. L. 94-125, 89 Stat. 678; Apr. 19, 1977, Pub. L. 95-22, title II, §201, 91 Stat. 49; Oct. 12, 1977, Pub. L. 95-128, title II, §209, 91 Stat. 1131; Nov. 7, 1977, Pub. L. 95-154, 91 Stat. 1256; Oct. 27, 1978, Pub. L. 95-534, 92 Stat. 2032; June 8, 1979, Pub. L. 96-18, §§1, 3, 93 Stat. 35, 36; Mar. 31, 1980, Pub. L. 96-221, title I, §105(b)(2), 94 Stat. 140.)

REFERENCES IN TEXT

Section 1463 of this title, referred to in text, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648.

CODIFICATION

Section is comprised of subsec. (b) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note set out under section 353 of this title.

AMENDMENTS

1980—Par. (1). Pub. L. 96-221 inserted provisions relating to obligations of a foreign government or agency thereof.

1979—Par. (1). Pub. L. 96-18, §1(a), struck out proviso under which Federal Reserve banks had been allowed, until May 1, 1979, to buy and sell either in the open market or directly from or to the United States bonds, notes, or other obligations which were direct obligations of the United States or which were fully guaranteed by the United States and, after Apr. 30, 1979, had allowed such obligations to be purchased but only in the open market.

Pub. L. 96-18, §3(b), inserted provision that notwithstanding any other provision of this chapter, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market.

Par. (2). Pub. L. 96-18, §§1(b), 3(a), temporarily substituted “the United States or any agency of the United States, and to lend, under the direction and regulations of the Federal Open Market Committee, any such obligation to the Secretary of the Treasury” for “any agency of the United States”. See Effective and Termination Dates of 1979 Amendment note set out below.

Pars. (3), (4). Pub. L. 96-18, §§1(c), 3(a), temporarily added pars. (3) and (4). See Effective and Termination Dates of 1979 Amendment note set out below.

1978—Par. (1). Pub. L. 95-534 substituted “May 1, 1979” for “May 1, 1978” and “April 30, 1979” for “April 30, 1978”.

1977—Par. (1). Pub. L. 95-154 substituted “May 1, 1978” for “October 1, 1977” and “April 30, 1978” for “September 30, 1977”.

Pub. L. 95-128 substituted “October 1, 1977” for “November 1, 1978” and “September 30, 1977” for “October 31, 1978”.

Pub. L. 95-22 substituted “November 1, 1978” for “November 1, 1976” and “October 31, 1978” for “October 31, 1976”.

1975—Par. (1). Pub. L. 94-125 substituted “November 1, 1976” for “November 1, 1975” and “October 31, 1976” for “October 31, 1975”.

1974—Par. (1). Pub. L. 93-495 substituted “November 1, 1975 for “November 1, 1973” and “October 31, 1975” for “October 31, 1973”.

1973—Par. (1). Pub. L. 93-93 substituted “November 1, 1973” for “July 1, 1973” and “October 31, 1973” for “June 30, 1973”.

1971—Par. (1). Pub. L. 92-45 substituted “July 1, 1973” for “July 1, 1971” and “June 30, 1973” for “June 30, 1971”.

1970—Par. (1). Pub. L. 91-360 substituted “July 1, 1971” for “July 1, 1970” and “June 30, 1971” for “June 30, 1970”.

1968—Par. (1). Pub. L. 90-300 substituted “July 1, 1970” for “July 1, 1968” and “June 30, 1970” for “June 30, 1968”.

1966—Pub. L. 89-597 designated existing provisions as par. (1) and added par. (2).

Pub. L. 89-484 substituted “July 1, 1968” for “July 1, 1966” and “June 30, 1968” for “June 30, 1966”.

1964—Pub. L. 88-344 substituted “July 1, 1966” for “July 1, 1964”, and “June 30, 1966” for “June 30, 1964”.

1962—Pub. L. 87-506 substituted “July 1, 1964” for “July 1, 1962” and “June 30, 1964” for “June 30, 1962”.

1961—Pub. L. 87-353 struck out provision authorizing every Federal reserve bank to buy and sell, at home or abroad, bonds of the Federal Farm Mortgage Corporation having maturities from date of purchase of not exceeding six months.

1960—Pub. L. 86-567 substituted “July 1, 1962” for “July 1, 1960” and “June 30, 1962” for “June 30, 1960”.

1958—Pub. L. 85-476 substituted “July 1, 1960” for “July 1, 1958” and “June 30, 1960” for “June 30, 1958”.

1956—Act June 25, 1956, substituted “July 1, 1958” for “July 1, 1956” and “June 30, 1958” for “June 30, 1956”.

1954—Act June 29, 1954, substituted “July 1, 1956” for “July 1, 1954” and “June 30, 1956” for “June 30, 1954”.

1952—Act June 23, 1952, substituted “July 1, 1954” for “July 1, 1952” and “June 30, 1954” for “June 30, 1952”.

1950—Act June 30, 1950, substituted “July 1, 1952” for “July 1, 1950” and “June 30, 1952” for “June 30, 1950”.

1947—Act Apr. 28, 1947, substituted proviso which allows the Federal Reserve banks to buy and sell either in the open market or directly from or to the United States any bonds, notes, or other obligations which are direct obligations of the United States or are fully guaranteed by the United States but limits the aggregate amount to be held at any one time to \$5,000,000,000, and after June 30, 1950 allows such obligation to be purchased, but only in the open market for former proviso.

1942—Act Mar. 27, 1942, amended proviso generally.

1935—Act Aug. 23, 1935, §206(a), inserted proviso.

1934—Act Apr. 27, 1934, authorized purchase and sale of bonds issued under subsec. (c) of [former] section 1463 of this title.

Act Jan. 31, 1934, authorized purchase and sale of bonds of Federal Farm Mortgage Corporation.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE AND APPLICABILITY OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

Section 105(b)(2) of Pub. L. 96-221 provided that the amendment by that section is applicable as this section is in effect on first day of sixth month which begins after March 31, 1980, and as it will be in effect on June 1, 1981.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Section 3(a) of Pub. L. 96-18 provided that: “Except for the amendments made by subsection (a) of the first section of this Act [amending par. (1) of this section], and except for the amendment made by subsection (b) of this section [amending par. (1) of this section effective upon the expiration of the two-year period begin-

ning on June 8, 1979], the amendments made by this Act [enacting section 359a of this title and pars. (3) and (4) of this section and amending par. (2) of this section] shall be effective only during the two-year period which begins on the date of enactment of this Act [June 8, 1979]. Upon the expiration of such period, each provision of law amended by this Act [enacting section 359a of this title and amending this section], except section 14(b)(1) of the Federal Reserve Act [par. (1) of this section], is amended to read as it did immediately prior to the enactment of this Act."

Section 3(b) of Pub. L. 96-18 provided that the amendment made by that section is effective "Upon the expiration of the 2-year period which begins on the date of enactment of this Act [June 8, 1979]".

EXPIRATION OF 1942 AMENDMENT

Amendment of the proviso of this section by act Mar. 27, 1942, remained in force only until the date fixed by section 645 of Appendix to Title 50, War and National Defense, after which provisions in force before the amendment again became effective. Before the 1942 amendment, the proviso of this section read: "Provided, That any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 347, 412, 2158 of this title; title 20 section 1087-2.

§ 356. Purchase of commercial paper from member banks and sale of same

Every Federal reserve bank shall have power to purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined.

(Dec. 23, 1913, ch. 6, § 14(c), 38 Stat. 264.)

CODIFICATION

Section is comprised of subsec. (c) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 357. Establishment of rates of discount

Every Federal reserve bank shall have power to establish from time to time, subject to review and determination of the Board of Governors of the Federal Reserve System, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business, but each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board.

(Dec. 23, 1913, ch. 6, § 14(d), 38 Stat. 264; Apr. 13, 1920, ch. 128, 41 Stat. 550; Mar. 4, 1923, ch. 252, title IV, § 407, 42 Stat. 1480; Aug. 23, 1935, ch. 614, title II, §§ 203(a), 206(b), 49 Stat. 704, 706.)

CODIFICATION

Section is comprised of subsec. (d) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 206(b), inserted words at end of section beginning "but each such".

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 343, 412 of this title.

§ 358. Establishment of accounts for purposes of open-market operations; correspondents and agencies

Every Federal reserve bank shall have power to establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said Board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 632 of this title. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transactions authorized by this section under rules and regulations to be prescribed by the board.

(Dec. 23, 1913, ch. 6, § 14(e), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, § 6, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Apr. 7, 1941, ch. 43, § 1, 55 Stat. 131.)

CODIFICATION

Section is comprised of subsec. (e) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1941—Act Apr. 7, 1941, inserted in first sentence "and which bear the signature of two or more responsible parties" and "or for foreign states as defined in section 632 of this title".

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 359. Purchase and sale of acceptances of intermediate credit banks and agricultural credit corporations

Every Federal reserve bank shall have power to purchase and sell in the open market, either from or to domestic banks, firms, corporations, or individuals, acceptances of Federal intermediate credit banks and of national agricultural credit corporations, whenever the Board of Governors of the Federal Reserve System shall declare that the public interest so requires.

(Dec. 23, 1913, ch. 6, §14(f), as added Mar. 4, 1923, ch. 252, title IV, §405, 42 Stat. 1480; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of subsec. (f) of section 14 of act Dec. 23, 1913, as added Mar. 4, 1923. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§201-217, 42 Stat. 1461, authorized creation of national agricultural credit corporations, prior to repeal by Pub. L. 86-230, Sept. 8, 1959, §24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, §77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 359a. Omitted

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §14(h), as added June 8, 1979, Pub. L. 96-18, §2, 93 Stat. 35, which authorized the Secretary of the Treasury to borrow and sell in open market, and required the repurchase and return of obligations to Federal Reserve Banks, was effective only during the two-year period that began June 8, 1979, as provided by section 3(a) of Pub. L. 96-18.

§ 360. Receiving checks and drafts on deposit at par; charges for collections, exchange, and clearances

Every Federal reserve bank shall receive on deposit at par from depository institutions or from Federal reserve banks checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn by any depositor in any other Federal reserve bank or depository institution upon funds to the credit of said depositor in said reserve bank or depository institution. Nothing herein contained shall be construed as prohibiting a depository institution from charging its

actual expense incurred in collecting and remitting funds, or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall, by rule, fix the charges to be collected by the depository institutions from its patrons whose checks and other items, including negotiable orders of withdrawal and share drafts are cleared through the Federal reserve bank and the charge which may be imposed for the service of the clearing or collection rendered by the Federal reserve bank.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 265; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Mar. 31, 1980, Pub. L. 96-221, title I, §105(c), 94 Stat. 140.)

CODIFICATION

Section is comprised of thirteenth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1980—Pub. L. 96-221 substituted references to depository institutions for references to member banks wherever appearing and inserted references to applicability to other items, including negotiable orders of withdrawal and share drafts.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 461 of this title.

§ 361. Bills receivable, bills of exchange, acceptances; regulations by Board of Governors

The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this chapter, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §13 (par.), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Aug. 23, 1935, ch. 614, §203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is based on the tenth par. of section 13 of act Dec. 23, 1913, as amended. The tenth par. constituted the eighth par. of section 13 in 1916 (39 Stat. 753), became the ninth par. in 1923 (42 Stat. 1478), and became the tenth par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§§ 362 to 364. Omitted

CODIFICATION

Section 362, act June 1, 1955, ch. 113, title I, 69 Stat. 72, which related to reimbursement of Federal Reserve banks and branches for necessary expenses incident to deposit of withheld taxes in Government depositories, was from the Treasury-Post Office Appropriation Act, 1956, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

May 28, 1954, ch. 242, title I, 68 Stat. 144.
 June 18, 1953, ch. 132, title I, 67 Stat. 67.
 June 30, 1952, ch. 523, title I, 66 Stat. 289.
 Aug. 11, 1951, ch. 301, title I, 65 Stat. 182.
 Sept. 6, 1950, ch. 896, Ch. IV, title I, 64 Stat. 634.
 June 30, 1949, ch. 286, title I, 63 Stat. 358.
 June 14, 1948, ch. 466, title I, 62 Stat. 409.

Section 363, act June 1, 1955, ch. 113, title I, 69 Stat. 72, which related to reimbursement of Federal Reserve banks and branches for necessary expenses incident to verification and destruction of unfit United States paper currency, was from the Treasury-Post Office Appropriation Act, 1956, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation act: May 28, 1954, ch. 242, title I, 68 Stat. 144.

Section 364, act Sept. 26, 1970, Pub. L. 91-422, title II, 84 Stat. 875, which related to reimbursement of Federal Reserve banks and branches for expenditures as fiscal agents of the United States on account of Post Office Department operations, was from the Treasury, Post Office, and Executive Office Appropriation Act, 1971, and was not repeated in subsequent appropriation acts.

SUBCHAPTER X—POWERS AND DUTIES OF MEMBER BANKS

§ 371. Real estate loans**(a) Authorization to make real estate loans; orders, rules, and regulations of Comptroller of the Currency**

Any national banking association may make, arrange, purchase or sell loans or extensions of credit secured by liens on interests in real estate, subject to section 1828(o) of this title and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.

(b) Eligibility for discount as commercial paper of notes representing loans financing construction of residential or farm buildings; prerequisites

Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the first paragraph of section 343 of this title if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

(Dec. 23, 1913, ch. 6, § 24, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 754; Feb. 25, 1927, ch. 191, § 16, 44

Stat. 1232; June 27, 1934, ch. 847, § 505, 48 Stat. 1263; Aug. 23, 1935, ch. 614, title II, § 208, title III, § 328, 49 Stat. 706, 717; Mar. 28, 1941, ch. 31, § 8, 55 Stat. 62; July 22, 1937, ch. 517, § 15(a), as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1079; May 25, 1948, ch. 334, § 9, 62 Stat. 265; Oct. 25, 1949, ch. 729, § 6, 63 Stat. 906; Apr. 20, 1950, ch. 94, title V, § 502, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, § 207, title V, § 503, 65 Stat. 303, 312; Aug. 15, 1953, ch. 510, 67 Stat. 613; July 22, 1954, ch. 561, 68 Stat. 525; Aug. 28, 1937, ch. 870, § 10(f), as added Aug. 17, 1954, ch. 751, § 1(4), 68 Stat. 736; Aug. 11, 1955, ch. 781, §§ 1, 2, 69 Stat. 633, 634; July 18, 1958, Pub. L. 85-536, § 3, 72 Stat. 396; Sept. 9, 1959, Pub. L. 86-251, § 4, 73 Stat. 489; June 30, 1961, Pub. L. 87-70, title VIII, § 804(c), title IX, § 902, 75 Stat. 188, 191; Sept. 28, 1962, Pub. L. 87-717, 76 Stat. 662; June 30, 1964, Pub. L. 88-341, 78 Stat. 233; Sept. 2, 1964, Pub. L. 88-560, title X, § 1004, 78 Stat. 807; Aug. 10, 1965, Pub. L. 89-117, title II, § 201(b)(2), title XI, § 1111, 79 Stat. 465, 509; Nov. 3, 1966, Pub. L. 89-754, title V, § 504(a)(2), 80 Stat. 1277; May 25, 1967, Pub. L. 90-19, § 26, 81 Stat. 28; Aug. 1, 1968, Pub. L. 90-448, title IV, § 416(b), title XVII, § 1718, 82 Stat. 518, 609; July 24, 1970, Pub. L. 91-351, title VII, § 704, 84 Stat. 462; Dec. 31, 1970, Pub. L. 91-609, title VII, § 727(c), 84 Stat. 1803; Aug. 22, 1974, Pub. L. 93-383, title VII, § 711, title VIII, § 802(i)(1), 88 Stat. 716, 725; Oct. 15, 1982, Pub. L. 97-320, title IV, § 403(a), 96 Stat. 1510; Dec. 19, 1991, Pub. L. 102-242, title III, § 304(b), 105 Stat. 2354.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-242 substituted “section 1828(o) of this title and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order” for “such terms, conditions, and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation”.

1982—Subsec. (a). Pub. L. 97-320 amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows:

“(1) Any national banking association may make real estate loans, secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and upon real estate to be improved by a building or buildings to be constructed or in the process of construction, in an amount which when added to the amount unpaid upon prior mortgages, liens, encumbrances, if any, upon such real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by a mortgage, trust deed, or other instrument, which shall constitute a lien on real estate in fee or, under such rules and regulations as may be prescribed by the Comptroller of the Currency, on a leasehold under a lease which does not expire for at least ten years beyond the maturity date of the loan, and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by off-site improvements such as streets, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. If any such loan exceeds 75 per centum of the appraised value of the real estate or if the real estate

is improved with a one- to four-family dwelling, installment payments shall be required which are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

“(2) The limitations and restrictions set forth in paragraph (1) shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans (A) which are insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], (B) which are insured by the Secretary of Agriculture pursuant to title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or title V of the Housing Act of 1949, as amended, [42 U.S.C. 1471 et seq.], or (C) which are guaranteed by the Secretary of Housing and Urban Development, for the payment of the obligations of which the full faith and credit of the United States is pledged, and such limitations and restrictions shall not apply to real estate loans which are fully guaranteed or insured by a State, or any agency or instrumentality thereof, or by a State authority for the payment of the obligations of which the faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan, or to any loan at least 20 per centum of which is guaranteed under chapter 37 of title 38, or to obligations guaranteed under section 1440 of title 42.

“(3) Loans which are guaranteed or insured as described in paragraph (2) shall not be taken into account in determining the amount of real estate loans which a national banking association may make in relation to its capital and surplus or its time and savings deposits or in determining, the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate security and partly of other security, including a guaranty or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate, and in no event shall a loan be considered as a real estate loan where there is a valid and binding agreement which is entered into by a financially responsible lender or other party either directly with the association or which is for the benefit of or has been assigned to the association and pursuant to which agreement the lender or other party is required to advance to the association within sixty months from the date of the making of such loan the full amount of the loan to be made by the association upon the security of real estate. Except as otherwise provided, no such association shall make real estate loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of the amount of its time and savings deposits, whichever is greater: *Provided*, That the amount unpaid upon real estate loans secured by other than first liens, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, shall not exceed in an aggregate sum 20 per centum of the amount of the capital stock of such association paid in and unimpaired plus 20 per centum of the amount of its unimpaired surplus fund.”

Subsec. (b). Pub. L. 97-320 redesignated subsec. (d) as (b) and struck out former subsec. (b) “Any national banking association may make real estate loans secured by liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument; and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, shall not exceed 66% per centum of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount

unpaid upon prior mortgages, liens, and encumbrances, if any, exceed 66% per centum of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years; except that any such loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate at least 6% per centum per annum. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens, prescribed in subsection (a) of this section, but no national banking association shall make forest tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.”

Subsec. (c). Pub. L. 97-320 struck out subsec. (c) “Loans made to finance the construction of a building or buildings and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings, and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed sixty months, may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building or buildings are being constructed, at the option of each national banking association that may have an interest in such loan: *Provided*, That no national banking association shall invest in, or be liable on, any such loans classed as commercial loans under this subsection in an aggregate amount in excess of 100 per centum of its actually paid-in and unimpaired capital plus 100 per centum of its unimpaired surplus fund.”

Subsec. (d). Pub. L. 97-320 redesignated subsec. (d) as (b).

Subsec. (e). Pub. L. 97-320 struck out subsec. (e) “Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) secured by an assignment of rents under a lease, and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, and loans in which the Small Business Administration co-operates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act [15 U.S.C. 631 et seq.], shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.”

Subsec. (f). Pub. L. 97-320 struck out subsec. (f) “Any national banking association may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section, if the total unpaid amount loaned, exclusive of loans which subsequently comply with such limitations and restrictions, does not exceed 10 per centum of the amount that a national banking association may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that such association may invest in real estate loans.”

Subsec. (g). Pub. L. 97-320 struck out subsec. (g) “Loans made pursuant to this section shall be subject to such conditions and limitations as the Comptroller of the Currency may prescribe by rule or regulation.”

1974—Subsec. (a). Pub. L. 93-383, §§711, 802(i)(1), designated unlettered first par. as subsec. (a), substantially revised provisions relating to real estate loans by associations, and inserted reference to obligations guaranteed by section 1440 of title 42.

Subsecs. (b) to (f). Pub. L. 93-383, § 711, designated unlettered second, third, fourth, and fifth pars. as subsecs. (b) to (f) and substantially revised provisions relating to real estate loans secured by liens upon forest tracts, loans made to finance the construction of buildings, notes representing loans, repayment of loans, and waiver of restrictions and limitations.

Subsec. (g). Pub. L. 93-383, § 711, added subsec. (g) authorizing the Comptroller of the Currency to prescribe rules and regulations relating to loans.

1970—Pub. L. 91-609 authorized national banks to invest in obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970.

Pub. L. 91-351 substituted in cl. (3) of third sentence of first par. “90 per centum” for “80 per centum” and “thirty years” for “twenty-five years”, and in first sentence of third par. “sixty months” for “thirty-six months” wherever appearing.

1968—Pub. L. 90-448, § 416(b), substituted “any national banking association may make loans or purchase obligations for land development which are secured by mortgages insured under title X of the National Housing Act or guaranteed under title IV of the Housing and Urban Development Act of 1968” for “any national banking association may make loans for land development which are secured by mortgages insured under title X of the National Housing Act” in first par.

Pub. L. 90-448, § 1718, substituted “in whole or in part and at any time or times prior to the maturity of such obligation” for “when the entire amount of such obligation is sold to the association” wherever appearing in first and second pars., “thirty-six months” for “twenty-four months” in two places in second par., and “Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower’s general credit standing and forecast of income, with or without other security, or (ii) where the association relies on other security as collateral for the loans (including but not limited to a guaranty of a third party), and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, such loans shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary non-real-estate loans” for “Loans made to manufacturing and industrial businesses where the association looks for repayment out of the operations of the borrower’s business, relying primarily on the borrower’s general credit standing and forecast of operations, with or without other security, but wishes to take a mortgage on the borrower’s real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary commercial loans” in last par.

1967—Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Housing and Home Finance Administrator” in first sentence of fourth par.

1966—Pub. L. 89-754 permitted national banking associations to make loans for group practice facilities which are secured by mortgages insured under subchapter IX-B of chapter 13 of this title.

1965—Pub. L. 89-117 permitted national banking associations to make loans for land development which are secured by mortgages insured under title X of the National Housing Act and increased from 18 months to 24 months the maximum maturity of industrial, commercial, and residential construction loans.

1964—Pub. L. 88-560 substituted in cl. (3) of third sentence of first par. “80” for “75” per centum and “twenty-five” for “20” years.

Pub. L. 88-341 substituted “60 per centum of the appraised fair market value of the growing timber, lands, and improvements thereon” for “40 per centum of the appraised value of the economically marketable timber”, “60 per centum of the original appraised total value of the property” for “40 per centum of the original appraised value of the economically marketable

timber”, increased the permissible loan term from 2 to 3 years in the case of unamortized loans, from 10 to 15 years in the case of amortized loans, and decreased the annual rate from 10 to 6½ per centum.

1962—Pub. L. 87-717 increased aggregate real estate loan limitation from 60 to 70 per centum of a bank’s time and savings deposits, and limitation on maturities for loans made to finance the construction of residential or farm buildings, from nine months or less to eighteen months or less.

1961—Pub. L. 87-70 inserted “, or title V of the Housing Act of 1949, as amended” after “sections 590r to 590x-3 of title 16” in first par., and in next to last par. inserted provisions permitting home improvement loans which are insured under section 1709(k) or 1715k(h) of this title to be made without regard to the first lien requirements of this section.

1959—Pub. L. 86-251, § 4(a), substituted in second sentence of first par., “under a lease which does not expire for at least 10 years beyond the maturity date of the loan” for “(1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the loan is made or acquired by the national banking association”.

Pub. L. 86-251, § 4(b)(1), (2), added cl. (3) in third sentence of first par., redesignated former cl. (3) as cl. (4), and prohibited the application of the described limitations and restrictions to State-guaranteed loans.

Pub. L. 86-251, § 4(c), inserted provisions in third par. classifying certain loans for construction of industrial or commercial buildings as ordinary commercial loans and authorized investments in or liability on loans in an amount that includes 100 per centum of its unimpaired surplus fund.

Pub. L. 86-251, § 4(d), added par. classifying certain loans to manufacturing and industrial businesses as ordinary commercial loans.

1958—Pub. L. 85-536 amended fourth par. by striking out “or the Small Business Administration” after “Housing and Home Finance Administrator” and “or the Small Business Act of 1953” after “or 1701g-1 of this title”, and inserting provisions exempting loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred basis from the restrictions or limitations of this section imposed upon loans secured by real estate.

1955—Act Aug. 11, 1955, § 1, amended first par. generally to increase the percentage of the loan to the appraised value of the property from 60 to 66½ percent in the case of 40 percent amortized residential mortgage loans not exceeding a 10-year maturity, and to permit national banks to make a residential real-estate loan in an amount not to exceed 66½ percent of the appraised value of the property and for a term not longer than 20 years.

Act Aug. 11, 1955, § 2, amended third par. by increasing from 6 to 9 months construction loans for the purpose of financing residential or farm buildings.

1954—Act Aug. 17, 1954, amended third sentence of first par. by inserting “, or sections 590r to 590x-3 of title 16” after “sections 1001-1005d of title 7”.

Act July 22, 1954, amended fourth par. by inserting references to the Small Business Administration and to the Small Business Act of 1953.

1953—Act Aug. 15, 1953, amended section by inserting new second par. to permit the making of real estate loans secured by first liens upon forest tracts which are properly managed.

1951—Act Sept. 1, 1951, § 207, amended third sentence of first par. by inserting a reference to subchapter X of chapter 13 of this title.

Act Sept. 1, 1951, § 503, amended third par. by inserting a reference to the Housing and Home Finance Administrator, and references to sections 1701g and 1701g-1 of this title.

1950—Act Apr. 20, 1950, amended third sentence of first par. by substituting “1748-1748g, or 1706c of this title” for “or 1748-1748g of this title”.

1949—Joint Res. Oct. 25, 1949, amended first par. by striking out second sentence and inserting new second

sentence, and by inserting “sections 1707–1715, 1736–1742, and 1748–1748g of this title” for “sections 1707–1715 and 1736–1742 of this title”.

1948—Act May 25, 1948, amended third par. by striking out references to certain lending authority which the Corporation was granted under section 604(a) of title 15, as amended in 1947, and which it does not now have.

1946—Act Aug. 14, 1946, amended first par. by inserting “or which are insured by the Secretary of Agriculture pursuant to sections 1001–1005d of title 7”.

1941—Act Mar. 28, 1941, amended third sentence of first par. by inserting reference to sections 1736 to 1742 of this title.

1935—Act Aug. 23, 1935, amended first par. and added third par.

1934—Act June 27, 1934, amended first par. and added second par.

1927—Act Feb. 25, 1927, amended first par.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 403(c) of Pub. L. 97–320 provided that: “This section [amending this section and section 92 of this title] shall take effect upon the expiration of one hundred and eighty days after the date of its enactment [Oct. 15, 1982].”

REPEALS

Repealing provisions of Consolidated Farmers Home Administration Act of 1961 as not having the effect of repealing the amendments to this section enacted by act July 22, 1937, §15(a), as added Aug. 14, 1946, and Aug. 28, 1937, §10(f), as added Aug. 17, 1954, see section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a References in Other Laws note under section 1921 of Title 7, Agriculture.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

National Housing Act, application to, see section 1733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1591a.

§ 371a. Payment of interest on demand deposits

No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided*, That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this section; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this section, and every member bank shall take such action as may be necessary to conform to this section as soon as possible consistently with its contractual obligations: *Provided further*, That this section shall not apply to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia: *Provided further*, That until the expiration of two years after August 23, 1935, this section shall not apply (1) to any deposit made by a savings bank as defined in section 12B of this Act, as amended, or by a mutual savings bank, or (2) to any

deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law. So much of existing law as requires the payment of interest with respect to any funds deposited by the United States, by any Territory, District, or possession thereof, or by any public instrumentality, agency, or officer of the foregoing, as is inconsistent with the provisions of this section is repealed. Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.

(Dec. 23, 1913, ch. 6, §19(i), formerly §19 par. (12), as added June 16, 1933, ch. 89, §11(b), 48 Stat. 181; amended Aug. 23, 1935, ch. 614, title III, §324(c), 49 Stat. 714; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; renumbered §19(i), Sept. 21, 1966, Pub. L. 89–597, §2(b), 80 Stat. 824; Dec. 28, 1979, Pub. L. 96–161, title I, §101(a), 93 Stat. 1233; Mar. 31, 1980, Pub. L. 96–221, title III, §§302(a), 307, 94 Stat. 145, 147.)

REFERENCES IN TEXT

Section 12B of this Act [Federal Reserve Act], as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified to chapter 16 (§1811 et seq.) of this title.

This section, referred to in the last sentence, means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b–1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

CODIFICATION

Words “(including the Philippine Islands)” following “or any possession thereof” were omitted from text on authority of Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1980—Pub. L. 96–221, §§302(a), 307, inserted provision identical to provision added by Pub. L. 96–161 respecting authorization of member banks to permit withdrawals to be made automatically from savings deposits consisting only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such transfer or payments in connection with checks or drafts drawn upon the bank, and repealed the amendment made by Pub. L. 96–161. See Repeals and Effective Date of 1980 Amendment notes below.

1979—Pub. L. 96–161 inserted provision allowing member banks to permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other

account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.

1935—Act Aug. 23, 1935, affected three provisos and added last sentence.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 306 of title III of Pub. L. 96-221 provided that: “The amendments made by sections 302, 304, and 305 of this title [amending this section and sections 1464, 1752, 1757, 1763, 1785, and 1828 of this title] shall take effect at the close of March 31, 1980, and the amendments made by section 303 of this title [amending section 1832 of this title] shall take effect on December 31, 1980.”

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Section 104 of Pub. L. 96-161 which provided that the amendments made by sections 101-103 [amending this section and sections 1464, 1752, 1757, and 1828 of this title] shall take effect on Dec. 31, 1979, and shall remain in effect until the close of Mar. 31, 1980, was omitted from the Code in view of the repeal of the amendments made by sections 101-103 of Pub. L. 96-161 by Pub. L. 96-221, title III, § 307, Mar. 31, 1980, 94 Stat. 147.

REPEALS

Amendment by section 101 of Pub. L. 96-161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96-221, and substantially identical provisions were enacted by section 302 of Pub. L. 96-221, such amendments to take effect at the close of Mar. 31, 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits

The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, prescribe rules governing the advertisement of interest on deposits by member banks on time and savings deposits. The provisions of this section shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

(Dec. 23, 1913, ch. 6, § 19(j), formerly § 19 (par. 13), as added June 16, 1933, ch. 89, § 11(b), 48 Stat. 182; amended Aug. 23, 1935, ch. 614, title III, § 324(c), 49 Stat. 714; Oct. 15, 1962, Pub. L. 87-827, § 1, 76 Stat. 953; July 21, 1965, Pub. L. 89-79, § 1, 79 Stat. 244; renumbered § 19(j) and amended Sept. 21, 1966, Pub. L. 89-597, § 2(b), (c), 80 Stat. 824; Sept. 21, 1968, Pub. L. 90-505, § 2(a), 82 Stat. 856; Mar. 31, 1980, Pub. L. 96-221, title II, § 207(b)(4)-(6), 94 Stat. 144.)

AMENDMENTS

1980—Pub. L. 96-221 struck out provisions relating to payment of interest on deposits, prescribing of dif-

ferent limitations by the Board for different classes of deposits, and payment of time deposits before maturity.

1968—Pub. L. 90-505 gave Board power to prescribe rules governing the payment and advertising of interest on deposits.

1966—Pub. L. 89-597, § 2(c), made authority of Board to prescribe maximum permissible rates of interest that may be paid by member banks on time and savings deposits discretionary rather than mandatory, required prior consultations with the FDIC Board and the FHLB Board, authorized different rate limitations for different classes of deposits, for deposits of different amounts, or according to such other reasonable bases as the Board may deem desirable in the public interest, and struck out provision for rate limitation according to the varying discount rates of member banks in the several Federal Reserve districts.

1965—Pub. L. 89-79 extended until Oct. 15, 1968, the period during which the provisions of this paragraph do not apply to the rate of interest payable by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1962—Pub. L. 87-827 inserted sentence making this paragraph inapplicable, during the period commencing on October 15, 1962, and ending upon the expiration of three years after such date, to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1935—Act Aug. 23, 1935, among other changes, inserted “except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board” to second sentence and proviso.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 207(b) of Pub. L. 96-221 provided in part that the amendment made by that section is effective 6 years after Mar. 31, 1980.

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Section 7 of Pub. L. 89-597, as amended, formerly set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title (which provided in part that amendment of this section by section 2(c) of Pub. L. 89-597 was effective only to Dec. 15, 1980, and that on Dec. 15, 1980, this section was amended to read as it would without the amendment by section 2(c) of Pub. L. 89-597), was repealed by section 207(a) of Pub. L. 96-221.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

TIME DEPOSITS; INTEREST RATES, LIMITATION

Pub. L. 93-123, Oct. 15, 1973, 87 Stat. 448, provided that in carrying out the Act of September 21, 1966 (Pub. L. 89-597) [enacting section 1425b of this title, amending sections 355, 371b, 461, and 1828 of this title and section 771 of former Title 31, repealing section 462a-1 of this title, and enacting provisions set out as notes under section 461 of this title] and other provisions of law, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board take action to limit rates of interest or dividends paid on time deposits of less than \$100,000 by institutions regulated by them, prior to repeal by Pub. L. 96-221, title II, § 207(b)(13), Mar. 31, 1980, 94 Stat. 144, eff. 6 years after Mar. 31, 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105, 3502 of this title.

§ 371b-1. Repealed. Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168

Section, act Dec. 23, 1913, ch. 6, §19(k), as added Dec. 28, 1979, Pub. L. 96-161, title II, §208, 93 Stat. 1238, provided that no member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate could plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which could be charged, taken, received, or reserved, that any such provision was preempted, and that no civil or criminal penalty which would otherwise have been applicable under such provision would apply to such member bank or affiliate or to any other person.

EFFECTIVE DATE OF REPEAL

Section 529 of Pub. L. 96-221 provided in part that the repeal of this section is effective at the close of Mar. 31, 1980.

SAVINGS PROVISION

Section 529 of Pub. L. 96-221 provided in part that, notwithstanding the repeal of Pub. L. 96-104 and title II of Pub. L. 96-161, this section [which had been enacted by those laws] shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when this section was in effect in such State.

PRIOR PROVISIONS

A prior section 371b-1, act Dec. 23, 1913, ch. 6, §19(k), as added Nov. 5, 1979, Pub. L. 96-104, title II, §201, 93 Stat. 792, identical to this section as added by Pub. L. 96-161, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979, except that its provisions would continue to apply to deposits made or obligations issued in any State on or after Nov. 5, 1979, but prior to such repeal. See Effective Date of 1979 Amendment note set out below.

A prior section 371b-1, act Dec. 23, 1913, ch. 6, §19(k), as added Oct. 29, 1974, Pub. L. 93-501, title III, §301, 88 Stat. 1560, identical to this section as added by Pub. L. 96-104, was repealed by section 1 of Pub. L. 96-104 except that its provisions shall continue to apply to any deposit made or obligation issued in any State during the period specified in section 304 of Pub. L. 93-501. See Effective and Termination Date of 1974 Amendment note set out below.

EFFECTIVE DATE OF 1979 AMENDMENTS

Prior to its repeal by section 529 of Pub. L. 96-221, section 211 of Pub. L. 96-161 provided that: "The amendments made by sections 208, 209, and 210 of this title [enacting this section and amending sections 1425b and 1828 of this title] shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act [Dec. 28, 1979] and ending on the earliest of—

"(1) in the case of a State statute, July 1, 1980;

"(2) the date, after the date of the enactment of this Act [Dec. 28, 1979], on which such State adopts a law stating in substance that such State does not want the amendments made by sections 208, 209, and 210 of this title to apply with respect to such deposits and obligations; or

"(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act [Dec. 28, 1979], have voted in favor of, or to retain, any law, provision of the constitution of such state, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations."

Prior to its repeal by section 212 of Pub. L. 96-161, section 204 of Pub. L. 96-104 provided that: "The amendments made by this title [enacting this section and amending sections 1425b and 1828 of this title] shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act [Nov. 5, 1979] and ending on the earlier of—

"(1) July 1, 1981;

"(2) the date, after the date of the enactment of this Act [Nov. 5, 1979], on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

"(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act [Nov. 5, 1979], have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations."

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Prior to its repeal by section 1 of Pub. L. 96-104, section 304 of title III of Pub. L. 93-501 provided that: "The amendments made by this title [which enacted this section and amended sections 1425b and 1828 of this title] shall apply to any deposit made or obligation issued in any State after the date of enactment of this title [Oct. 29, 1974], but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title."

STATES HAVING CONSTITUTIONAL PROVISIONS REGARDING MAXIMUM INTEREST RATES

Section 213 of Pub. L. 96-161 provided that the provisions of title II of Pub. L. 96-161, which enacted this section, repealed former section 371b-1 of this title, and enacted provisions set out as a note under this section, to continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

§ 371b-2. Interbank liabilities

(a) Purpose

The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

(b) Aggregate limits on insured depository institutions' exposure to other depository institutions

The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

(c) "Exposure" defined

(1) In general

For purposes of subsection (b) of this section, an insured depository institution's "exposure" to another depository institution means—

(A) all extensions of credit to the other depository institution, regardless of name or description, including—

(i) all deposits at the other depository institution;

(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

(B) all purchases of or investments in securities issued by the other depository institution;

(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

(2) Exemptions

The Board may, at its discretion, by regulation or order, exempt transactions from the definition of “exposure” if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

(3) Attribution rule

For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

(d) Insured depository institution

For purposes of this section, the term “insured depository institution” has the same meaning as in section 1813 of this title.

(e) Rulemaking authority; enforcement

The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 1818 of this title.

(Dec. 23, 1913, ch. 6, §23, as added Dec. 19, 1991, Pub. L. 102-242, title III, §308(a), 105 Stat. 2362.)

EFFECTIVE DATE

Section 308(c) of Pub. L. 102-242 provided that: “The amendment made by this section [enacting this section] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].”

REGULATIONS

Section 308(b) of Pub. L. 102-242 provided that: “The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act [12 U.S.C. 371b-2] (as added by subsection (a)).”

§ 371c. Banking affiliates

(a) Restrictions on transactions with affiliates

(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 per centum of the capital stock and surplus of the member bank.

(2) For the purpose of this section, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

(4) Any covered transactions and any transactions exempt under subsection (d) of this section between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

(b) Definitions

For the purpose of this section—

(1) the term “affiliate” with respect to a member bank means—

(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

(B) a bank subsidiary of the member bank;

(C) any company—

(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 80a-2(a)(20) of title 15; and

(E) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

(2) the following shall not be considered to be an affiliate:

(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under paragraph (1)(E) not to exclude such subsidiary company from the definition of affiliate;

(B) any company engaged solely in holding the premises of the member bank;

(C) any company engaged solely in conducting a safe deposit business;

(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

(3)(A) a company or shareholder shall be deemed to have control over another company if—

(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

(4) the term “subsidiary” with respect to a specified company means a company that is controlled by such specified company;

(5) the term “bank” includes a State bank, national bank, banking association, and trust company;

(6) the term “company” means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term “company” includes a “member bank” and a “bank”;

(7) the term “covered transaction” means with respect to an affiliate of a member bank—

(A) a loan or extension of credit to the affiliate;

(B) a purchase of or an investment in securities issued by the affiliate;

(C) a purchase of assets, including assets subject to an agreement to repurchase, from

the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

(D) the acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

(8) the term “aggregate amount of covered transactions” means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

(9) the term “securities” means stocks, bonds, debentures, notes, or other similar obligations; and

(10) the term “low-quality asset” means an asset that falls in any one or more of the following categories:

(A) an asset classified as “substandard”, “doubtful”, or “loss” or treated as “other loans especially mentioned” in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

(B) an asset in a nonaccrual status;

(C) an asset on which principal or interest payments are more than thirty days past due; or

(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

(c) Collateral for certain transactions with affiliates

(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to—

(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

(i) obligations of the United States or its agencies;

(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

(iii) notes, drafts, bills of exchange or bankers’ acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

(iv) a segregated, earmarked deposit account with the member bank;

(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.

(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.

(4) The securities issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the member bank.

(5) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

(d) Exemptions

The provisions of this section, except subsection (a)(4) of this section, shall not be applicable to—

(1) any transaction, subject to the prohibition contained in subsection (a)(3) of this section, with a bank—

(A) which controls 80 per centum or more of the voting shares of the member bank;

(B) in which the member bank controls 80 per centum or more of the voting shares; or

(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

(4) making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

(A) obligations of the United States or its agencies;

(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

(C) a segregated, earmarked deposit account with the member bank;

(5) purchasing securities issued by any company of the kinds described in section 1843(c)(1) of this title;

(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or,

subject to the prohibition contained in subsection (a)(3) of this section, purchasing loans on a nonrecourse basis from affiliated banks; and

(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to a repurchase agreement or with recourse.

(e) Rulemaking and additional exemptions

(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

(2) The Board may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.

(Dec. 23, 1913, ch. 6, §23A, as added June 16, 1933, ch. 89, §13, 48 Stat. 183; amended Aug. 23, 1935, ch. 614, title III, §327, 49 Stat. 717; June 30, 1954, ch. 434, §1, 68 Stat. 358; Sept. 8, 1959, Pub. L. 86-230, §1(b), 73 Stat. 457; July 1, 1966, Pub. L. 89-485, §§12(a), 13(h), 80 Stat. 241, 243; Oct. 15, 1982, Pub. L. 97-320, title IV, §410(b), 96 Stat. 1515; Jan. 12, 1983, Pub. L. 97-457, §22, 96 Stat. 2509.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (b)(2)(E), probably means the effective date as provided by Pub. L. 97-320, which completely revised this section. Section 410(c) of Pub. L. 97-320 set out as an Effective Date of 1982 Amendment note below, provided that this section shall apply to any transaction entered into after Oct. 15, 1982 with certain exceptions.

AMENDMENTS

1983—Subsec. (d)(1). Pub. L. 97-457, §22(1), substituted “subject to the prohibition contained in subsection (a)(3) of this section” for “except for the purchase of a low-quality asset which is prohibited”.

Subsec. (d)(6). Pub. L. 97-457, §22(2), inserted “, subject to the prohibition contained in subsection (a)(3) of this section,” after “market quotation or”.

1982—Pub. L. 97-320 amended section generally by substituting provisions in lettered subsections relating to restrictions on transactions with affiliates, collateral for such transactions, exemptions for certain transactions and rulemaking and additional exemptions, for prior undesignated paragraphs which read as follows:

“No member bank shall (1) make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or (2) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate, or (3) accept the capital stock, bonds, debentures, or other such obligations of any such affiliate as collateral security for advances made to any person, partnership, association, or corporation, if, in the case of any such affiliate, the aggregate amount of such loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security will exceed 10 per centum of the capital stock and surplus of such member bank, or if, in the case of all such affiliates, the aggregate amount of such loans, extensions of credits, repurchase agreements, investments, and advances against such collateral security will exceed 20 per centum of the capital stock and surplus of such member bank.

“Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate

shall be secured by collateral in the form of stocks, bonds, debentures, or other such obligations having a market value at the time of making the loan or extension of credit of at least 20 per centum more than the amount of the loan or extension of credit, or of at least 10 per centum more than the amount of the loan or extension of credit if it is secured by obligations of any State or of any political subdivision or agency thereof: *Provided*, That the provisions of this paragraph shall not apply to loans or extensions of credit secured by obligations of the United States Government, the Federal intermediate credit banks, the Federal land banks, or the Federal Home Loan Banks, or by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal Reserve Banks. A loan or extension of credit to a director, officer, clerk, or other employee, or any representative of any such affiliate, shall be deemed a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of or transferred to the affiliate.

"The provisions of this section shall not apply to any affiliate (1) engaged solely in holding the bank premises of the member bank with which it is affiliated; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 25 of this Act, as amended [12 U.S.C. 601 et seq.], or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (4) organized under section 25(a) of this Act, as amended [12 U.S.C. 611 et seq.], of this title, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (5) engaged solely in holding obligations of the United States or obligations fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks; (6) where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship; or (7) where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a member bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such member bank; but as to any such affiliate, member banks shall continue to be subject to other provisions of law applicable to loans by such banks and investments by such banks in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest.

"For the purposes of this section, (1) the term 'extension of credit' and 'extensions of credit' shall be deemed to include (A) any purchase of securities, other assets or obligations under repurchase agreement, and (B) the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, except that the acquisition of such paper by a member bank from another bank, without recourse, shall not be deemed to be a 'discount' by such member bank for such other bank; and (2) non-interest-bearing deposits to the credit of a bank shall not be deemed to be a loan or advance or extension of credit to the bank of deposit, nor shall the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business be deemed to be a loan or advance or extension of credit to the depository bank.

"For the purposes of this section, the term 'affiliate' shall include, with respect to any member bank, any bank holding company of which such member bank is

a subsidiary within the meaning of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1841 et seq.], and any other subsidiary of such company.

"The provisions of this section shall not apply to (1) stock, bonds, debentures, or other obligations of any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1843(c)(1)]; (2) stock, bonds, debentures, or other obligations accepted as security for debts previously contracted, provided that such collateral shall not be held for a period of over two years; (3) shares which are of the kinds and amounts eligible for investment by national banks under the provisions of section 24 of this title; (4) any extension of credit by a member bank to a bank holding company of which such bank is a subsidiary or to another subsidiary of such bank holding company, if made within one year after July 1, 1966, and pursuant to a contract lawfully entered into prior to January 1, 1966; or (5) any transaction by a member bank with another bank the deposits of which are insured by the Federal Deposit Insurance Corporation, if more than 50 per centum of the voting stock of such other bank is owned by the member bank or held by trustees for the benefit of the shareholders of the member bank."

1966—Pub. L. 89-485 added last three pars. and struck out from third par. introductory statement that term "affiliate" shall include holding company affiliates as well as other affiliates, respectively. Such added pars. make "extension of credit" cover all purchases under repurchase agreements and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, excluding therefrom such discounts by one bank for another, if without recourse, exclude from being deemed a loan, advance, or extension of credit noninterest bearing deposits to the credit of a bank or the giving of immediate credit to a bank for uncollected items received in the ordinary course of business, define term "affiliate" (superseding one stricken from par. three), and exempt stocks, bonds, debentures, or other obligations of companies described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended; or accepted as security for debts previously contracted, shares of the kind and amounts eligible for investment by national banks under section 24 of this title, loans by a bank to its holding company or a fellow subsidiary if made within one year after July 1, 1966 and pursuant to a contract lawfully entered before Jan. 1, 1966, and transactions between a member bank and a majority-owned insured bank.

1959—Pub. L. 86-230 struck out from second and third pars. references to Home Owners' Loan Corporation after Federal Home Loan Banks.

1954—Act June 30, 1954, amended third par. substituting "solely" for "on June 16, 1934" after "(1) engaged" and struck out "or in maintaining and operating properties acquired for banking purposes prior to such date" after "is affiliated".

1935—Act Aug. 23, 1935, amended third par.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 410(c) of Pub. L. 97-320 provided that: "Section 23A of the Federal Reserve Act, as amended by this section [this section], shall apply to any transaction entered into after the date of enactment of this Act [Oct. 15, 1982], except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act [see section 1 of Pub. L. 97-320, set out as a Short Title of 1982 Amendments note under section 226 of this title], or any participation in a loan to such an affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act."

CROSS REFERENCES

Holding company affiliate, definition of, see section 221a of this title.

Section not to be affected by fact that transaction takes place outside the United States or that a company is organized or operates outside the United States, see section 1841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371c-1, 504, 601, 1468, 1815, 1828, 1831o, 1841, 1843, 3909 of this title.

§ 371c-1. Restrictions on transactions with affiliates**(a) In general****(1) Terms**

A member bank and its subsidiaries may engage in any of the transactions described in paragraph (2) only—

(A) on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies, or

(B) in the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.

(2) Transactions covered

Paragraph (1) applies to the following:

(A) Any covered transaction with an affiliate.

(B) The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.

(C) The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.

(D) Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person.

(E) Any transaction or series of transactions with a third party—

(i) if an affiliate has a financial interest in the third party, or

(ii) if an affiliate is a participant in such transaction or series of transactions.

(3) Transactions that benefit affiliate

For the purpose of this subsection, any transaction by a member bank or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

(b) Prohibited transactions**(1) In general**

A member bank or its subsidiary—

(A) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted—

(i) under the instrument creating the fiduciary relationship,

(ii) by court order, or

(iii) by law of the jurisdiction governing the fiduciary relationship; and

(B) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such bank.

(2) Exception

Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

(3) Definitions

For the purpose of this subsection—

(A) the term “security” has the meaning given to such term in section 78c(a)(10) of title 15; and

(B) the term “principal underwriter” means any underwriter who, in connection with a primary distribution of securities—

(i) is in privity of contract with the issuer or an affiliated person of the issuer;

(ii) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or

(iii) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

(c) Advertising restriction

A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

(d) Definitions

For the purpose of this section—

(1) the term “affiliate” has the meaning given to such term in section 371c of this title (but does not include any company described in section¹ (b)(2) of such section or any bank);

(2) the terms “bank”, “subsidiary”, “person”, and “security” (other than security as used in subsection (b) of this section) have the meanings given to such terms in section 371c of this title; and

(3) the term “covered transaction” has the meaning given to such term in section 371c of this title (but does not include any transaction which is exempt from such definition under subsection (d) of such section).

(e) Regulations

The Board may prescribe regulations to administer and carry out the purposes of this section, including—

(1) regulations to further define terms used in this section; and

(2) regulations to—

(A) exempt transactions or relationships from the requirements of this section; and

¹ So in original. Probably should be “subsection”.

(B) exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of this section,

if the Board finds such exemptions or exclusions are in the public interest and are consistent with the purposes of this section.

(Dec. 23, 1913, ch. 6, § 23B, as added Aug. 10, 1987, Pub. L. 100-86, title I, § 102(a), 101 Stat. 564.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 504, 1468, 1815, 1828, 1843 of this title.

§ 371d. Investment in bank premises or stock of corporation holding premises

No national bank, without the approval of the Comptroller of the Currency, and no State member bank, without the approval of the Board of Governors of the Federal Reserve System, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a of this title, will exceed the amount of the capital stock of such bank.

(Dec. 23, 1913, ch. 6, § 24A, as added June 16, 1933, ch. 89, § 14, 48 Stat. 184; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 30, 1954, ch. 434, § 2, 68 Stat. 358.)

AMENDMENTS

1954—Act June 30, 1954, inserted “together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a of this title”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 372. Bankers' acceptances

(a) Institutions; drafts and bills of exchange; types

Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 3105 of this title (hereinafter in this section referred to as “institutions”), may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

(i) which grow out of transactions involving the importation or exportation of goods;

(ii) which grow out of transactions involving the domestic shipment of goods; or

(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

(b) Ratio limit of bills to unimpaired capital stock and surplus

Except as provided in subsection (c) of this section, no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h) of this section.

(c) Authorization for special ratio limit; foreign banks

The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h) of this section.

(d) Ratio limit for domestic transactions

Notwithstanding subsections (b) and (c) of this section, with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this section.

(e) Ratio limit for single entity; foreign banks; security

No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h) of this section, unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

(f) Exception for participation agreements

With respect to an institution which issues an acceptance, the limitations contained in this section shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

(g) Definitions by Board

In order to carry out the purposes of this section, the Board may define any of the terms used in this section, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this section shall apply.

(h) Dollar equivalent of foreign bank paid-up capital stock and surplus

Any limitation or restriction in this section based on paid-up and unimpaired capital stock

and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.

(Dec. 23, 1913, ch. 6, § 13 (par.), 38 Stat. 264; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, § 5, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Oct. 8, 1982, Pub. L. 97-290, title II, § 207, 96 Stat. 1239.)

REFERENCES IN TEXT

Section 3105 of this title, referred to in subsec. (a), was in the original a reference to section 7 of the International Banking Act of 1978, Pub. L. 95-369, Sept. 17, 1978, 92 Stat. 620, which enacted 3105 of this title and amended section 13 of the Federal Reserve Act (12 U.S.C. 347d).

CODIFICATION

Section is comprised of the seventh par. of section 13 of act Dec. 23, 1913, as amended. The seventh par. constituted the fifth par. of section 13 in 1916 (39 Stat. 752), became the sixth par. in 1923 (42 Stat. 1478), and became the seventh par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 343 and 344 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

The seventh par. of section 13 of the Federal Reserve Act [this section] as amended in 1982 by Pub. L. 97-290 contained lettered subpars. (A) through (H). For purposes of codification those lettered subpars. (A) through (H) have been translated as subsecs. (a) through (h), “paragraph” has been translated as “section”, and “subparagraph” has been translated as “subsection”.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-290 designated first sentence of existing provisions as subsec. (a), inserted reference to foreign banks and their subdivisions, further designated the specifications for drafts or bills as cl. (i)-(iii), and in cl. (ii) as so designated, struck out requirement that shipping documents conveying or securing title be attached at acceptance.

Subsec. (b). Pub. L. 97-290 designated second independent clause of second sentence of existing provisions as subsec. (b), substituted “no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus” for “no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital stock and surplus” and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsec. (c). Pub. L. 97-290 designated first proviso of second sentence of existing provisions as subsec. (c), struck out provision applying the subsec. to all banks regardless of capital stock or surplus, substituted a limit of 200 per centum for 100 per centum, and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsec. (d). Pub. L. 97-290 designated second proviso of second sentence of existing provisions as subsec. (d), substituted “Notwithstanding subsections (b) and (c) of this section, with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic

transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this section.” for “*Provided further*, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed 50 per centum of such capital stock and surplus.”

Subsec. (e). Pub. L. 97-290 designated first independent clause of second sentence of existing provisions as subsec. (e), substituted “institution” for “member bank” and “bank” and “accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount” for “accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation to an amount”, and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsecs. (f) to (h). Pub. L. 97-290 added subsecs. (f) to (h).

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Acceptances of other banks not subject to limitation based upon capital and surplus, see section 84 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412, 461 of this title.

§ 373. Acceptance of drafts or bills drawn by banks in foreign countries or dependencies of United States for purpose of dollar exchange

Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Board of Governors of the Federal Reserve System by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions. Such drafts or bills may be acquired by Federal reserve banks in such amounts and subject to such regulations, restrictions, and limitations as may be prescribed by the Board of Governors of the Federal Reserve System: *Provided, however*, That no member bank shall accept such drafts or bills of exchange referred to¹ this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security: *Provided further*, That no member bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 754; amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

¹ So in original. Probably should be followed by “in”.

CODIFICATION

Section is based on the twelfth par. of section 13 of act Dec. 23, 1913, as amended. The twelfth par. constituted the tenth par. of section 13 in 1916 (39 Stat. 754), became the eleventh par. in 1923 (42 Stat. 1478), and became the twelfth par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 374. Acting as agent for nonmember bank in getting discounts from reserve bank

No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this chapter, except by permission of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 19(e), formerly § 19 (par. 8), 38 Stat. 270; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 19(e), Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of part of subsec. (e), formerly eighth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597. Remainder of subsec. (e) of such section 19 is classified to section 463 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 374a. Acting as agent for nonbanking borrower in making loans on securities to dealers in stocks, bonds, etc.; penalties

No member bank shall act as the medium or agent of any nonbanking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than \$100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(Dec. 23, 1913, ch. 6, § 19(d), formerly § 19 (par. 7), as added June 16, 1933, ch. 89, § 11(a), 48 Stat. 181; renumbered § 19(d), Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

CODIFICATION

Section is comprised of subsec. (d), formerly seventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 375. Purchases from directors; sales to directors

Any member bank may contract for, or purchase from, any of its directors or from any firm of which any of its directors is a member, any securities or other property, when (and not otherwise) such purchase is made in the regular course of business upon terms not less favorable to the bank than those offered to others, or when such purchase is authorized by a majority of the board of directors not interested in the sale of such securities or property, such authority to be evidenced by the affirmative vote or written assent of such directors: *Provided, however*, That when any director, or firm of which any director is a member, acting for or on behalf of others, sells securities or other property to a member bank, the Board of Governors of the Federal Reserve System by regulation may, in any or all cases, require a full disclosure to be made, on forms to be prescribed by it, of all commissions or other considerations received, and whenever such director or firm, acting in his or its own behalf, sells securities or other property to the bank the Board of Governors of the Federal Reserve System, by regulation, may require a full disclosure of all profit realized from such sale.

Any member bank may sell securities or other property to any of its directors, or to a firm of which any of its directors is a member, in the regular course of business on terms not more favorable to such director or firm than those offered to others, or when such sale is authorized by a majority of the board of directors of a member bank to be evidenced by their affirmative vote or written assent: *Provided, however*, That nothing in this section contained shall be construed as authorizing member banks to purchase or sell securities or other property which such banks are not otherwise authorized by law to purchase or sell.

(Dec. 23, 1913, ch. 6, § 22(d), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 971; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504 of this title.

§ 375a. Loans to executive officers of banks

(1) General prohibition; authorization for extension of credit; conditions for credit

Except as authorized under this section, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become in-

debted to that member bank except by means of an extension of credit which the bank is authorized to make under this section. Any extension of credit under this section shall be promptly reported to the board of directors of the bank, and may be made only if—

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

(2) Mortgage loans

A member bank may make a loan to any executive officer of the bank if, at the time the loan is made—

(A) it is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

(3) Educational loans

A member bank may make extensions of credit to any executive officer of the bank to finance the education of the children of the officer.

(4) General limitation on amount of credit

A member bank may make extensions of credit not otherwise specifically authorized under this section to any executive officer of the bank, in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency.

(5) Partnership loans

Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purposes of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

(6) Report of date and amount of credit extensions, security, and uses of proceeds upon excessive extension of credit

Whenever an executive officer of a member bank becomes indebted to any bank or banks (other than the one to which he is an officer) on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the aggregate amount of credit of the same category that could lawfully be extended to him by the bank, he shall make a written report to the board of directors of the bank, stating the date and amount of each such

extension of credit, the security therefor, and the purposes for which the proceeds have been or are to be used.

(7) Endorsement or guarantee of loans or assets; protective indebtedness

This section does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

(8) Continuation of violation

Each day that any extension of credit in violation of this section exists is a continuation of the violation for the purposes of section 1818 of this title.

(9) Report of loan activity since previous report of condition

Each member bank shall include with (but not as part of) each report of condition and copy thereof filed under section 1817(a)(3) of this title a report of all loans under authority of this section made by the bank since its previous report of condition.

(10) Rules and regulations; definitions

The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this section.

(Dec. 23, 1913, ch. 6, § 22(g), as added June 16, 1933, ch. 89, § 12, 48 Stat. 182; amended June 14, 1935, ch. 245, 49 Stat. 375; Aug. 23, 1935, ch. 614, title III, § 326(c), 49 Stat. 716; Apr. 25, 1938, ch. 173, 52 Stat. 223; June 20, 1939, ch. 214, § 1, 53 Stat. 842; July 3, 1967, Pub. L. 90-44, § 1, 81 Stat. 109; Nov. 10, 1978, Pub. L. 95-630, title I, § 110, 92 Stat. 3665; Oct. 15, 1982, Pub. L. 97-320, title IV, § 421, 96 Stat. 1522; Sept. 23, 1994, Pub. L. 103-325, title III, § 334(a), 108 Stat. 2233.)

CODIFICATION

Proviso which permitted renewal or extension of loans made to executive officers prior to June 16, 1933, for periods expiring not more than five years from June 16, 1939, was omitted as obsolete.

AMENDMENTS

1994—Par. (2). Pub. L. 103-325 in introductory provisions substituted “A member” for “With the specific prior approval of its board of directors, a member”.

1982—Par. (2). Pub. L. 97-320, § 421(a), struck out “not exceeding \$60,000” after “may make a loan”.

Par. (3). Pub. L. 97-320, § 421(a), struck out “, not exceeding the aggregate amount of \$20,000 outstanding at any one time,” after “officer of the bank”.

Par. (4). Pub. L. 97-320, § 421(b), substituted “in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency” for “not exceeding the aggregate amount of \$10,000 outstanding at any one time”.

1978—Par. (2). Pub. L. 95-630 substituted “\$60,000” for “\$30,000”.

Par. (3). Pub. L. 95-630 substituted “\$20,000” for “\$10,000”.

Par. (4). Pub. L. 95-630 substituted “\$10,000” for “\$5,000”.

1967—Par. (1). Pub. L. 90-44 rewrote in first sentence of provisions designated as par. (1) the prohibition of

former first sentence against any executive officer borrowing or otherwise becoming indebted to a member bank of which he is an officer and against any member bank making any loan or extending credit in any other manner to any of its own executive officers, authorized member banks to extend credit to such executive officers and to report such extensions to the board of directors, and provided in subpars. (A) to (D) conditions for such extension of credit.

Pars. (2), (3). Pub. L. 90-44 inserted provisions, designated as pars. (2) and (3), for mortgage loans and educational loans, respectively.

Par. (4). Pub. L. 90-44 incorporated proviso of first sentence in provisions designated as par. (4), increased amount of available credit from \$2,500 to \$5,000, and struck out requirement of prior approval of credit by majority of entire board of directors.

Par. (5). Pub. L. 90-44 substituted provisions, designated as par. (5), for extension of credit to partnerships for former provisions of third sentence that "Borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this section".

Par. (6). Pub. L. 90-44 incorporated reporting requirement of second sentence in provisions designated as par. (6) but limited it to extensions of credit from other banks to the executive officers as exceeded amounts available to such officers from their member banks under pars. (2) to (4) of this section.

Par. (7). Pub. L. 90-44 designated provisions of fourth sentence as par. (7).

Par. (8). Pub. L. 90-44 designated proviso of sixth sentence as par. (8) and identified the violation as one for purposes of section 1818 of this title.

Par. (9). Pub. L. 90-44 added requirement, designated as par. (9), that member banks report all loans made under authority of this section since previous report of condition.

Par. (10). Pub. L. 90-44 designated provisions of fifth sentence as par. (10) and substituted general authorization for definition of terms for former specific authorization for definition of "executive officer" and for determination what shall be deemed to be a borrowing, indebtedness, loan, or extension of credit.

Pub. L. 90-44 struck out former sixth sentence, less proviso, which provided for removal from office in manner prescribed in former section 77 of this title of any executive officer of member bank accepting a loan or extension of credit in violation of this section.

1939—Act June 20, 1939, substituted "June 16, 1939," for "from such date", in first sentence.

1938—Par. (1). Act Apr. 25, 1938, substituted "six" for "five" in first sentence.

1935—Act Aug. 23, 1935, added last two provisos.

Act June 14, 1935, struck out a proviso and inserted in lieu thereof first proviso.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective upon expiration of 120 days after Nov. 10, 1978, see sec. 2101 of Pub. L. 95-630 set out as an Effective Date note under section 375b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375b, 503, 504, 1468, 1828, 1972 of this title.

§ 375b. Extensions of credit to executive officers, directors, and principal shareholders of member banks

(1) In general

No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), (5), and (6).

(2) Preferential terms prohibited

A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank;

(B) does not involve more than the normal risk of repayment or present other unfavorable features; and

(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.

(3) Prior approval required

A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 1813 of this title) only if—

(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

(4) Aggregate limit on extensions of credit to any executive officer, director, or principal shareholder

A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 84 of this title. For purposes of this paragraph, section 84 of this title shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

(5) Aggregate limit on extensions of credit to all executive officers, directors, and principal shareholders

(A) In general

A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

(B) More stringent limit authorized

The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

(C) Board may make exceptions for certain banks

The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than \$100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.

(6) Overdrafts by executive officers and directors prohibited**(A) In general**

If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

(B) Exceptions

Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

- (i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; or
- (ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

(7) Prohibition on knowingly receiving unauthorized extension of credit

No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this section.

(8) Executive officer, director, or principal shareholder of certain affiliates treated as executive officer, director, or principal shareholder of member bank**(A) In general**

For purposes of this section, any executive officer, director, or principal shareholder (as the case may be) of any company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

(B) Exception

The Board may, by regulation, make exceptions to subparagraph (A), except as that subparagraph makes applicable paragraph (2), for an executive officer or director of a subsidiary of a company that controls the member bank, if that executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank.

(9) Definitions

For purposes of this section:

(A) Company**(i) In general**

Except as provided in clause (ii), the term "company" means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

(ii) Exceptions

The term "company" does not include—

- (I) an insured depository institution (as defined in section 1813 of this title); or
- (II) a corporation the majority of the shares of which are owned by the United States or by any State.

(B) Control

A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

- (i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;
- (ii) controls in any manner the election of a majority of the company's directors; or
- (iii) has the power to exercise a controlling influence over the company's management or policies.

(C) Executive officer

A person is an "executive officer" of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

(D) Extension of credit**(i) In general**

A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

(ii) Exceptions

The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.

(E) Member bank

The term "member bank" includes any subsidiary of a member bank.

(F) Principal shareholder

The term "principal shareholder"—

- (i) means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company; and
- (ii) does not include a company of which a member bank is a subsidiary.

(G) Related interest

A "related interest" of a person is—

- (i) any company controlled by that person; and

(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

(H) Subsidiary

The term “subsidiary” has the same meaning as in section 1841 of this title.

(10) Board’s rulemaking authority

The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this section.

(Dec. 23, 1913, ch. 6, § 22(h), as added Nov. 10, 1978, Pub. L. 95-630, title I, § 104, 92 Stat. 3644; amended Oct. 15, 1982, Pub. L. 97-320, title IV, §§ 410(e), 422, 96 Stat. 1520, 1522; Dec. 19, 1991, Pub. L. 102-242, title III, § 306(a)-(h), 105 Stat. 2355, 2357-2359; Oct. 28, 1992, Pub. L. 102-550, title IX, § 955, title XVI, § 1605(a)(10), 106 Stat. 3895, 4086; Sept. 23, 1994, Pub. L. 103-325, title III, § 334(b), 108 Stat. 2233.)

PRIOR PROVISIONS

A prior section 22(h) of act Dec. 23, 1913, ch. 6, as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107, was classified to section 596 of this title, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

AMENDMENTS

1994—Par. (8). Pub. L. 103-325 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

1992—Par. (6)(B)(i). Pub. L. 102-550, § 1605(a)(10), substituted “or” for “and” at end.

Par. (9)(D). Pub. L. 102-550, § 955(a), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Par. (9)(F). Pub. L. 102-550, § 955(b), designated portion of existing provisions as cl. (i), realigned margin, substituted “; and” for period at end, and added cl. (ii).

1991—Pub. L. 102-242, § 306(a), amended section generally, substituting provisions relating to extensions of credit to executive officers, directors, and principal shareholders of member banks for provisions relating to prohibitions respecting loans and extensions of credit to executive officers and directors of banks, political or campaign committees, etc.

Par. (1). Pub. L. 102-242, § 306(d)(2), inserted “(5),” after “(4),”.

Par. (2)(C). Pub. L. 102-242, § 306(b), added subpar. (C).
Par. (4). Pub. L. 102-242, § 306(c), inserted “, director,” after “executive officer” in heading and text.

Par. (5). Pub. L. 102-242, § 306(d)(1), added par. (5).

Par. (7). Pub. L. 102-242, § 306(e), added par. (7).

Par. (8). Pub. L. 102-242, § 306(f), struck out “bank holding” before “company of which the member”.

Par. (9)(E). Pub. L. 102-242, § 306(g), added subpar. (E).

Par. (9)(F). Pub. L. 102-242, § 306(h), struck out last sentence of subpar. (F) which read as follows: “For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with ‘18 percent’ substituted for ‘10 percent.’”

1982—Par. (2). Pub. L. 97-320, § 422, substituted “an amount prescribed in a regulation of the appropriate Federal banking agency” for “\$25,000”.

Par. (6)(C) to (F). Pub. L. 97-320, § 410(e), redesignated subpars. (D) to (G) as (C) to (F), respectively. Former subpar. (C), relating to definition of term “extension of credit”, was struck out.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1605(a)(10) of Pub. L. 102-550 effective as if included in the Federal Deposit Insur-

ance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609 of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 306(l) of Pub. L. 102-242 provided that: “The amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title] shall become effective upon the earlier of—

“(1) the date on which final regulations under subsection (m)(1) [set out below] become effective [May 18, 1992, see 57 F.R. 22417]; or

“(2) 150 days after the date of enactment of this Act [Dec. 19, 1991].”

EFFECTIVE DATE

Section 2101 of Pub. L. 95-630 provided that: “Except as otherwise provided herein, this Act [see Short Title of 1978 Amendment note set out under section 226 of this title] shall take effect upon the expiration of one hundred and twenty days after the date of its enactment [Nov. 10, 1978].”

REGULATIONS

Section 306(m) of Pub. L. 102-242 provided that:

“(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act [Dec. 19, 1991], promulgate final regulations to implement the amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title], other than the amendments made by subsections (i) and (k) [amending sections 1468 and 1828 of this title].

“(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act [12 U.S.C. 375a(4)], as made applicable to those institutions by subsections (k) and (i), respectively.”

EXISTING TRANSACTIONS NOT AFFECTED BY 1991 AMENDMENTS

Section 306(n) of Pub. L. 102-242 provided that: “The amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title] do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments [see Effective Date of 1991 Amendment note above].”

REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS

Section 306(o) of Pub. L. 102-242 provided that: “An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504, 1468, 1828, 1831o, 1843, 1972 of this title.

§ 376. Rate of interest paid to directors, etc.

No member bank shall pay to any director, officer, attorney, or employee a greater rate of interest on the deposits of such director, officer, attorney, or employee than that paid to other depositors on similar deposits with such member bank.

(Dec. 23, 1913, ch. 6, §22(e), as added Sept. 26, 1918, ch. 177, §5, 40 Stat. 971.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504 of this title.

§ 377. Affiliation with organization dealing in securities; penalties

After one year from June 16, 1933, no member bank shall be affiliated in any manner described in subsection (b) of section 221a of this title with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities: *Provided*, That nothing in this paragraph shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business except such as may be incidental to the liquidation of its affairs.

For every violation of this section the member bank involved shall be subject to a penalty not exceeding \$1,000 per day for each day during which such violation continues. Such penalty may be assessed by the Board of Governors of the Federal Reserve System, in its discretion, and, when so assessed, may be collected by the Federal reserve bank by suit or otherwise.

If any such violation shall continue for six calendar months after the member bank shall have been warned by the Board of Governors of the Federal Reserve System to discontinue the same, (a) in the case of a national bank, all the rights, privileges, and franchises granted to it under the National Bank Act [12 U.S.C. 21 et seq.], may be forfeited in the manner prescribed in sections 141, 222 to 225, 281 to 283, 285, 286, 501a, and 502 of this title, or, (b) in the case of a State member bank, all of its rights and privileges of membership in the Federal Reserve System may be forfeited in the manner prescribed in subchapter VIII of this chapter.

(June 16, 1933, ch. 89, §20, 48 Stat. 188; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §302, 49 Stat. 704, 707.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

Subchapter VIII of this chapter, referred to in text, was in the original "section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 321-332)", meaning section 9 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified generally to subchapter VIII (§321 et seq.) of this chapter.

AMENDMENTS

1935—Act Aug. 23, 1935, §302, added proviso at end of first par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1843 of this title.

§ 378. Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties

(a) After the expiration of one year after June 16, 1933, it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities, or issuing securities, to the extent permitted to national banking associations by the provisions of section 24 of this title: *Provided further*, That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate; or

(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with others than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a pass book, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under, and authorized to engage in such business by, the laws of the United States or of any State, Territory, or District, and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation, or (B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or, (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction

be fined not more than \$5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

(June 16, 1933, ch. 89, §21, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §303, 49 Stat. 707; Sept. 8, 1959, Pub. L. 86-230, §23, 73 Stat. 466; Aug. 1, 1968, Pub. L. 90-448, title VIII, §804(d), 82 Stat. 543; Sept. 17, 1978, Pub. L. 95-369, §12, 92 Stat. 624.)

AMENDMENTS

1978—Subsec. (a)(2)(B). Pub. L. 95-369 inserted reference to permission by the United States to engage in such business and subjection by the laws of the United States to examination and regulation.

1968—Subsec. (a)(1). Pub. L. 90-448 inserted “, or issuing securities” in first proviso.

1959—Subsec. (a). Pub. L. 86-230 inserted “and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation,” after “District,” in cl. (2)(A).

1935—Subsec. (a). Act Aug. 23, 1935, added two provisos to end of par. (1) and amended par. (2) generally.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

SUBCHAPTER XI—DEPOSITARIES AND FISCAL AGENTS

§ 391. Federal reserve banks as Government depositaries and fiscal agents

The moneys held in the general fund of the Treasury, except the 5 per centum fund for the redemption of outstanding national-bank notes may, upon the direction of the Secretary of the Treasury, be deposited in Federal reserve banks, which banks, when required by the Secretary of the Treasury, shall act as fiscal agents of the United States; and the revenues of the Government or any part thereof may be deposited in such banks, and disbursements may be made by checks drawn against such deposits.

(Dec. 23, 1913, ch. 6, §15 (par.), 38 Stat. 265; Mar. 18, 1968, Pub. L. 90-269, §2, 82 Stat. 50.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of first par. of section 15 of act Dec. 23, 1913. Par. 2 of section 15 and par. 3 of section 15, as added Mar. 4, 1923, ch. 252, title IV, §406, 42 Stat. 1480, are classified to sections 392 and 393, respectively, of this title.

AMENDMENTS

1968—Pub. L. 90-269 struck out provision which excepted funds provided in this chapter for the redemption of Federal Reserve notes from deposit in Federal reserve banks.

CROSS REFERENCES

Inter-American Development Bank, see section 283d of Title 22, Foreign Relations and Intercourse.

International Finance Corporation, see section 282d of Title 22.

International Monetary Fund and Bank for Reconstruction and Rehabilitation, see section 286d of Title 22.

Reimbursement for expenses incident to acting as depositaries and fiscal agents, see section 3302 of Title 31, Money and Finance.

§ 392. Depositaries of Government funds as confined to banks in Federal reserve system; member banks as depositaries

No public funds of the postal savings, or any Government funds, shall be deposited in the continental United States in any bank not belonging to the system established by this chapter: *Provided, however*, That nothing in this chapter shall be construed to deny the right of the Secretary of the Treasury to use member banks as depositaries.

(Dec. 23, 1913, ch. 6, §15 (par.), 38 Stat. 265; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

Words “of the Philippine Islands, or” after “No public funds” were deleted on authority of 1946 Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

Section is comprised of second par. of section 15 of act Dec. 23, 1913. Par. 1 of section 15 and par. 3 of section 15, as added Mar. 4, 1923, ch. 252, title IV, §406, 42 Stat. 1480, are classified to sections 391 and 393, respectively, of this title.

§ 393. Federal reserve banks as depositaries for Farm Credit System

The Federal Reserve banks are authorized to act as depositaries for and fiscal agents of any Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System.

(Dec. 23, 1913, ch. 6, §15 (par.), as added Mar. 4, 1923, ch. 252, title IV, §406, 42 Stat. 1480; amended Dec. 10, 1971, Pub. L. 92-181, title V, §5.41, formerly §5.27(b), 85 Stat. 625; renumbered §5.41(b), Dec. 23, 1985, Pub. L. 99-205, title II, §205(a)(2), 99 Stat. 1703; renumbered §5.41, Jan. 6, 1988, Pub. L. 100-233, title VIII, §805(ff)(2), 101 Stat. 1717.)

CODIFICATION

Section is comprised of third par. of section 15 of act Dec. 23, 1913, as added Mar. 4, 1923. Pars. 1 and 2 of section 15 are classified to sections 391 and 392, respectively, of this title.

AMENDMENTS

1971—Pub. L. 92-181 substituted “Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System” for “national agricultural credit corporation or Federal intermediate credit bank”.

§ 394. Federal reserve banks as depositaries for and fiscal agents of Home Owners' Loan Corporation

The Federal Reserve banks are authorized, with the approval of the Secretary of the Treasury, to act as depositaries, custodians, and fiscal agents for the Home Owners' Loan Corporation.

(Apr. 27, 1934, ch. 168, § 8, 48 Stat. 646.)

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note set out under section 1463 of this title.

§ 395. Federal reserve banks as depositaries, custodians and fiscal agents for Commodity Credit Corporation

The Federal Reserve banks are authorized to act as depositaries, custodians, and fiscal agents for the Commodity Credit Corporation.

(July 16, 1943, ch. 241, § 3, 57 Stat. 566.)

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by Reorg. Plan No. 3 of 1946, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of Administration were excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER XII—FEDERAL RESERVE NOTES

§ 411. Issuance to reserve banks; nature of obligation; redemption

Federal reserve notes, to be issued at the discretion of the Board of Governors of the Federal Reserve System for the purpose of making advances to Federal reserve banks through the Federal reserve agents as hereinafter set forth and for no other purpose, are authorized. The said notes shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in lawful money on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or at any Federal Reserve bank.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 265; Jan. 30, 1934, ch. 6, § 2(b)(1), 48 Stat. 337; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Phrase "hereinafter set forth" is from section 16 of the Federal Reserve Act, act Dec. 23, 1913. Reference probably means as set forth in sections 17 et seq. of the Federal Reserve Act. For classification of these sections to the Code, see Tables.

CODIFICATION

Section is comprised of first par. of section 16 of act Dec. 23, 1913. Pars. 2 to 4, 5, and 6, 7, 8 to 11, 13 and 14 of section 16, and pars. 15 to 18 of section 16 as added June 21, 1917, ch. 32, § 8, 40 Stat. 238, are classified to sections 412 to 414, 415, 416, 418 to 421, 360, 248-1, and 467, respectively, of this title.

Par. 12 of section 16, formerly classified to section 422 of this title, was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225.

AMENDMENTS

1934—Act Jan. 30, 1934, struck out from last sentence provision permitting redemption in gold.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 412. Application for notes; collateral required

Any Federal Reserve bank may make application to the local Federal Reserve agent for such amount of the Federal Reserve notes hereinbefore provided for as it may require. Such application shall be accompanied with a tender to the local Federal Reserve agent of collateral in amount equal to the sum of the Federal Reserve notes thus applied for and issued pursuant to such application. The collateral security thus offered shall be notes, drafts, bills of exchange, or acceptances acquired under the provisions of sections 342 to 347, 347c, 347d, and 372 of this title, or bills of exchange endorsed by a member bank of any Federal Reserve district and purchased under the provisions of sections 348a and 353 to 359 of this title, or bankers' acceptances purchased under the provisions of said sections 348a and 353 to 359 of this title, or gold certificates, or Special Drawing Right certificates, or any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof, or assets that Federal Reserve banks may purchase or hold under sections 348a and 353 to 359 of this title. In no event shall such collateral security be less than the amount of Federal Reserve notes applied for. The Federal Reserve agent shall each day notify the Board of Governors of the Federal Reserve System of all issues and withdrawals of Federal Reserve notes to and by the Federal Reserve bank to which he is accredited. The said Board of Governors of the Federal Reserve System may at any time call upon a Federal Reserve bank for additional security to protect the Federal Reserve notes issued to it. Collateral shall not be required for Federal Reserve notes which are held in the vaults of Federal Reserve banks.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 265; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Feb. 27, 1932, ch. 58, § 3, 47 Stat. 57; Feb. 3, 1933, ch. 34, 47 Stat. 794; Jan. 30, 1934, ch. 6, § 2(b)(2), 48 Stat. 338; Mar. 6, 1934, ch. 47, 48 Stat. 398; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Mar. 1, 1937, ch. 20, 50 Stat. 23; June 30, 1939, ch. 256, 53 Stat. 991; June 30, 1941, ch. 264, 55 Stat. 395; May 25, 1943, ch. 102, 57 Stat. 85; June 12, 1945, ch. 186, § 2, 59 Stat. 237; June 19, 1968, Pub. L. 90-349, § 5(a), 82 Stat. 189; Nov. 10, 1978, Pub. L. 95-630, title I, § 113, 92 Stat. 3671;

Mar. 31, 1980, Pub. L. 96-221, title I, § 105(b)(1), 94 Stat. 140.)

CODIFICATION

Section is comprised of second par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1980—Pub. L. 96-221 inserted provisions relating to purchase, etc., of assets by Federal Reserve banks, and eliminating collateral requirement for Federal Reserve notes held in Federal Reserve bank vaults.

1978—Pub. L. 95-630 substituted “any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof” of “direct obligations of the United States”.

1968—Pub. L. 90-349 added Special Drawing Right certificates to the types of allowable collateral security which may be tendered for Federal Reserve notes.

1945—Act June 12, 1945, substituted “, or direct obligations of the United States.” for proviso after “gold certificates” in first sentence which limited period during which direct obligations of the United States could be accepted as collateral security.

1943—Act May 25, 1943, substituted “June 30, 1945” for “June 30, 1943” in proviso.

1941—Act June 30, 1941, substituted “June 30, 1943” for “June 30, 1941” in proviso.

1939—Act June 30, 1939, substituted “June 30, 1941” for “June 30, 1939” in proviso.

1937—Act Mar. 1, 1937, extended until June 30, 1939, period within which direct obligations of the United States may be accepted as collateral security under this section, and struck out provision authorizing President to extend period.

1934—Act Mar. 6, 1934, amended proviso and two sentences immediately following.

Act Jan. 30, 1934, amended portion of third sentence before proviso.

1933—Act Feb. 3, 1933, substituted “March 3, 1934” for “March 3, 1933” wherever appearing.

1932—Act Feb. 27, 1932, inserted proviso and two sentences immediately following.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective upon expiration of 120 days after Nov. 10, 1978, see sec. 2101 of Pub. L. 95-630 set out as an Effective Date note under section 375b of this title.

UNITED STATES OBLIGATIONS AS COLLATERAL; EXTENSION OF PERIOD

The period within which direct obligations of the United States could be accepted as collateral security under this section was extended to Mar. 3, 1937, by Proclamation No. 2117, of Feb. 14, 1935, 49 Stat. 3437; extended to June 30, 1939, by act Mar. 1, 1937; extended to June 30, 1941, by act June 30, 1939; extended to June 30, 1943, by act June 30, 1941; and extended to June 30, 1945, by act May 25, 1943. Act June 12, 1945, amended section to remove the time limitation.

CROSS REFERENCES

Notes upon which advances are made not eligible as collateral security, see section 347a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347a, 348, 420, 421, 461, 467 of this title.

§ 413. Distinctive letter and serial number of notes; cancellation of notes unfit for circulation; accounting; apportionment of credit among Federal Reserve banks

Federal Reserve notes shall bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors of the Federal Reserve System to each Federal Reserve bank. Federal Reserve notes unfit for circulation shall be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury. Upon destruction of such notes, credit with respect thereto shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 266; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Jan. 30, 1934, ch. 6, § 2(b)(3), (4), 48 Stat. 338; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 12, 1945, ch. 186, § 1(a), 59 Stat. 237; July 19, 1954, ch. 547, 68 Stat. 495; Mar. 3, 1965, Pub. L. 89-3, § 1, 79 Stat. 5; May 20, 1966, Pub. L. 89-427, § 3, 80 Stat. 161; Mar. 18, 1968, Pub. L. 90-269, § 3, 82 Stat. 50.)

CODIFICATION

Section is comprised of third par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 substituted requirement that Federal Reserve notes bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors to each Federal Reserve bank for former requirement that each Federal Reserve bank maintain reserves in gold certificates of not less than 25 percent against its Federal Reserve notes in actual circulation and former provisions respecting redemption by the Treasury of Federal Reserve notes.

1966—Pub. L. 89-427 substituted provisions that Federal Reserve notes unfit for circulation be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury and that credit with respect to the destruction of the notes be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System for provisions that Federal Reserve notes unfit for circulation be returned by the Federal Reserve agents to the Comptroller of the Currency for cancellation and destruction.

1965—Pub. L. 89-3 struck out requirement that each Federal Reserve bank maintain reserves in gold certificates against deposit liabilities.

1954—Act July 19, 1954, struck out provisions prohibiting a Federal Reserve bank from paying out notes of another Federal Reserve bank.

1945—Act June 12, 1945, amended first sentence generally by striking out “or lawful money” after “reserves in gold certificates”, substituting “25 per centum” for “35 per centum” and “40 per centum”, respectively.

1934—Act Jan. 30, 1934, amended first, fifth, and sixth sentences.

CHANGE OF NAME

Section 203(a) of Act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 414. Authority of Board of Governors respecting issuance of notes; interest; lien

The Board of Governors of the Federal Reserve System shall have the right, acting through the Federal Reserve agent, to grant in whole or in part, or to reject entirely the application of any Federal Reserve bank for Federal Reserve notes; but to the extent that such application may be granted the Board of Governors of the Federal Reserve System shall, through its local Federal Reserve agent, supply Federal Reserve notes to the banks so applying, and such bank shall be charged with the amount of the notes issued to it and shall pay such rate of interest as may be established by the Board of Governors of the Federal Reserve system on only that amount of such notes which equals the total amount of its outstanding Federal Reserve notes less the amount of gold certificates held by the Federal Reserve agent as collateral security. Federal Reserve notes issued to any such bank shall, upon delivery, together with such notes of such Federal Reserve bank as may be issued under subchapter XIII¹ of this chapter upon security of United States 2 per centum Government bonds, become a first and paramount lien on all the assets of such bank.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 266; June 21, 1917, ch. 32, § 7, 40 Stat. 237; Jan. 30, 1934, ch. 6, § 2(b)(5), 48 Stat. 338; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 12, 1945, ch. 186, § 1(b), 59 Stat. 237; Mar. 18, 1968, Pub. L. 90-269, § 4, 82 Stat. 50.)

REFERENCES IN TEXT

Subchapter XIII of this chapter, referred to in text, was in the original "section 18 of this Act", meaning section 18 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. Section 18 of the act was classified generally to subchapter XIII (§441 et seq.) of this chapter.

CODIFICATION

Section is comprised of fourth par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 repealed first sentence provisions that Board of Governors require each Federal Reserve bank to maintain on deposit in the Treasury a sum in gold certificates sufficient, in the judgment of the Secretary of the Treasury, for redemption of Federal Reserve notes issued to such bank, but not less than 5 percent of total amount of notes issued less amount of gold certificates held by the Federal Reserve agent as collateral security, and counting and including such deposit of gold certificates as part of the 25 percent re-

serve formerly required by section 413 of this title to be maintained against Federal Reserve notes in actual circulation and substituted in the first, formerly second sentence, "Board of Governors of the Federal Reserve System" for "Board".

1945—Act June 12, 1945, substituted in first sentence "25 per centum reserve required by section 413 of this title to be maintained against Federal Reserve notes in actual circulation" for "40 per centum reserve required by section 413 of this title".

1934—Act Jan. 30, 1934, amended first sentence.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 415. Reduction of liability for outstanding notes by depositing notes and collateral and payment of notes of series prior to 1928; reissue of deposited notes

Any Federal Reserve bank may at any time reduce its liability for outstanding Federal Reserve notes by depositing with the Federal Reserve agent its Federal Reserve notes, gold certificates, Special Drawing Right certificates, or lawful money of the United States. Federal Reserve notes so deposited shall not be reissued, except upon compliance with the conditions of an original issue. The liability of a Federal Reserve bank with respect to its outstanding Federal Reserve notes shall be reduced by an amount paid by such bank to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act.

(Dec. 23, 1913, ch. 6, § 16 (pars.), 38 Stat. 267; June 21, 1917, ch. 32, § 7, 40 Stat. 237; Jan. 30, 1934, ch. 6, § 2(b)(5), 48 Stat. 339; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 30, 1961, Pub. L. 87-66, § 8(a), 75 Stat. 147; Mar. 18, 1968, Pub. L. 90-269, § 5, 82 Stat. 50; June 19, 1968, Pub. L. 90-349, § 5(b), 82 Stat. 189.)

REFERENCES IN TEXT

Section 4 of the Old Series Currency Adjustment Act, referred to in text, which was classified to section 913 of former Title 31, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of fifth and sixth pars. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 added Special Drawing Right certificates to the types of deposits which Federal Reserve banks may use in reducing their liability for outstanding Federal Reserve notes.

Pub. L. 90-269 repealed second par. (sixth par. of section 16 of Act Dec. 23, 1913) which provided that the Federal Reserve agent shall hold the gold certificates and lawful money for exchange for the outstanding Federal Reserve notes and that upon the request of the

¹ See References in Text note below.

Secretary of the Treasury, the Board of Governors shall require the agent to transmit to the Treasurer of the United States as many gold certificates held by him as collateral as may be required for the exclusive purpose of the redemption of such Federal Reserve notes.

1961—Pub. L. 87-66 provided for reduction of liability for outstanding notes by payment of notes of series prior to 1928.

1934—Act Jan. 30, 1934, struck out “gold” wherever it appeared before “gold certificates,” and inserted “certificates” after “gold” wherever latter stood alone.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 416. Withdrawal of collateral deposited to protect notes and substitution of other collateral; retirement of notes; payment of notes of series prior to 1928; recovery of collateral; reissue of deposited notes

Any Federal Reserve bank may at its discretion withdraw collateral deposited with the local Federal Reserve agent for the protection of its Federal Reserve notes issued to it, and shall at the same time substitute therefor other collateral of equal amount with the approval of the Federal Reserve agent under regulations to be prescribed by the Board of Governors of the Federal Reserve System. Any Federal Reserve bank may retire any of its Federal Reserve notes by depositing them with the Federal Reserve agent or with the Treasurer of the United States, and such Federal Reserve bank shall thereupon be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of such notes. Any Federal Reserve bank shall further be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of any notes with respect to which such bank has made payment to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act. Federal Reserve notes so deposited shall not be reissued except upon compliance with the conditions of an original issue.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267; June 21, 1917, ch. 32, § 7, 40 Stat. 237; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 30, 1961, Pub. L. 87-66, § 8(b), 75 Stat. 147; Mar. 18, 1968, Pub. L. 90-269, § 6, 82 Stat. 50.)

REFERENCES IN TEXT

Section 4 of the Old Series Currency Adjustment Act, referred to in text, which was classified to section 913 of former Title 31, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of seventh par. of section 16 of act Dec. 23, 1913. For classification to this title of other

pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 repealed fourth sentence which provided that Federal Reserve banks shall not be required to maintain the reserve or the redemption fund against Federal Reserve notes which have been retired, or as to which payment has been made to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act, on notes of series prior to 1928.

1961—Pub. L. 87-66 provided for recovery of collateral upon payment of notes of series prior to 1928 and removed requirement of reserve or redemption fund for such notes.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 417. Custody and safe-keeping of notes issued to and collateral deposited with reserve agent

All Federal Reserve notes and all gold certificates, Special Drawing Right certificates, and lawful money issued to or deposited with any Federal Reserve agent under the provisions of this chapter shall be held for such agent, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, in the joint custody of himself and the Federal Reserve bank to which he is accredited. Such agent and such Federal Reserve bank shall be jointly liable for the safe-keeping of such Federal Reserve notes, gold certificates, Special Drawing Right certificates, and lawful money. Nothing herein contained, however, shall be construed to prohibit a Federal Reserve agent from depositing gold certificates and Special Drawing Right certificates with the Board of Governors of the Federal Reserve System, to be held by such Board subject to his order, or with the Treasurer of the United States, for the purposes authorized by law.

(June 21, 1917, ch. 32, § 7 (par.), 40 Stat. 238; Jan. 30, 1934, ch. 6, § 2(b)(6), 48 Stat. 339; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 19, 1968, Pub. L. 90-349, § 5(c), 82 Stat. 189.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of last par. of section 7 of act June 21, 1917. The preceding pars. of section 7 amended pars. two, three, four, five, six, and seven of section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 inserted references to Special Drawing Right certificates.

1934—Act Jan. 30, 1934, struck out “gold,” wherever it appeared before “gold certificates”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31. Money and Finance.

§ 418. Printing of notes; denomination and form

In order to furnish suitable notes for circulation as Federal reserve notes, the Secretary of the Treasury shall cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of \$1, \$2, \$5, \$10, \$20, \$50, \$100, \$500, \$1,000, \$5,000, \$10,000 as may be required to supply the Federal Reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury under the provisions of this chapter and shall bear the distinctive numbers of the several Federal reserve banks through which they are issued.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267; Sept. 26, 1918, ch. 177, § 3, 40 Stat. 969; June 4, 1963, Pub. L. 88-36, title I, § 3, 77 Stat. 54; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(3), 108 Stat. 2293.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of eighth par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103-325, which directed substitution in first sentence of “the Secretary of the Treasury shall” for “the Comptroller of the Currency shall under the direction of the Secretary of the Treasury,” was executed by making the substitution for “the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury,” to reflect the probable intent of Congress.

1963—Pub. L. 83-36 inserted “\$1, \$2,” after “notes of the denominations of”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 419. Delivery of notes prior to delivery to banks

When such notes have been prepared, the notes shall be delivered to the Board of Governors of

the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this chapter.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267; May 29, 1920, ch. 214, § 1, 41 Stat. 654; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(4), 108 Stat. 2293.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of ninth par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103-325 amended section generally. Prior to amendment, section read as follows: “When such notes have been prepared, they shall be deposited in the Treasury, or in the designated depository or mint of the United States nearest the place of business of each Federal reserve bank and shall be held for the use of such bank subject to the order of the Comptroller of the Currency for their delivery, as provided by this chapter.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 420. Control and direction of plates and dies; expense of issue and retirement of notes paid by banks

The plates and dies to be procured by the Secretary of the Treasury for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the laws relating to the procuring of such notes, and all other expenses incidental to their issue and retirement, shall be paid by the Federal reserve banks, and the Board of Governors of the Federal Reserve System shall include in its estimate of expenses levied against the Federal reserve banks a sufficient amount to cover the expenses herein provided for.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(5), 108 Stat. 2293.)

REFERENCES IN TEXT

Phrase “herein provided for”, referred to in text, probably means as provided for in section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

CODIFICATION

Section is comprised of tenth par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103-325 substituted “Secretary of the Treasury” for “Comptroller of the Currency” and “Board of Governors of the Federal Reserve System” for “Federal Reserve Board”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 421, 467 of this title.

§ 421. Examination of plates and dies

The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.

(Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(6), 108 Stat. 2293.)

CODIFICATION

Section is comprised of eleventh par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103-325 amended section generally. Prior to amendment, section read as follows: “The examination of plates, dies, bed pieces, and so forth, and regulations relating to such examination of plates, dies, and so forth, of national-bank notes provided for in section 108 of this title, is extended to include notes herein provided for.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 467 of this title.

§ 422. Repealed. June 26, 1934, ch. 756, § 1, 48 Stat. 1225

Section, act Dec. 23, 1913, ch. 6, § 16 (par.), 38 Stat. 267, made permanent appropriations for printing notes besides authorizing use of certain printing stock on hand Dec. 23, 1913.

SUBCHAPTER XIII—CIRCULATING NOTES
AND BONDS SECURING SAME**§§ 441 to 448. Omitted**

CODIFICATION

Sections, act Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268, as amended by acts Mar. 9, 1933, ch. 1, title IV, § 401, 48 Stat. 6; Sept. 23, 1994, Pub. L. 103-325, title VI, § 602(g)(7), 108 Stat. 2293, are omitted as obsolete.

Section 441 provided that at any time during a period of twenty years from Dec. 23, 1915, any member bank desiring to retire the whole or any part of its circulating notes file with the Treasurer of the United States an application to sell for its account, at par and accrued interest, United States bonds, securing circulation to be retired.

Section 442 related to purchase of bonds by reserve banks.

Section 443 related to transfer of bonds purchased, payment, and cancellation of circulating notes of member banks.

Section 444 related to issuance of circulating notes to reserve banks purchasing bonds.

Section 445 provided for issuance of circulating notes to Federal Reserve banks. Act June 12, 1945, ch. 186, § 3, 59 Stat. 238, provided that all power and authority with respect to the issuance of circulating notes, known as Federal Reserve bank notes, pursuant to this section would cease and terminate on June 12, 1945.

Section 446 related to exchange by reserve banks of bonds bearing circulating privilege for those without such privilege.

Section 447 related to form of bonds and conditions of issuance.

Section 448 related to exchange of one-year gold notes for 3 per centum gold bonds.

SUBCHAPTER XIV—BANK RESERVES

§ 461. Reserve requirements**(a) Establishment of applicable definitions, payment of interest, obligations as deposits, and regulations**

The Board is authorized for the purposes of this section to define the terms used in this section, to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, and, regardless of the use of the proceeds, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section and to prevent evasions thereof.

(b) Additional definitions; required amounts of reserves maintained against transaction accounts; waiver of ratio limits in extraordinary circumstances; supplemental reserves; reserves related to foreign obligations or assets; exemption for certain deposits; discount and borrowing; transitional adjustments; additional exemptions and waivers

(1) The following definitions and rules apply to this subsection, subsection (c) of this section, and sections 248-1, 248a, 342, 360, and 412 of this title:

(A) The term “depository institution” means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813] or any bank which is eligible to make application to become an insured bank under section 5 of such Act [12 U.S.C. 1815];

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iv) any insured credit union as defined in section 1752 of this title or any credit union which is eligible to make application to become an insured credit union pursuant to section 1781 of this title;

(v) any member as defined in section 1422 of this title;

(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) which is an insured depository institution (as defined in such Act [12 U.S.C. 1811 et seq.]) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and

(vii) for the purpose of sections 248-1, 342 to 347, 347c, 347d, and 372 of this title, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

(B) The term “bank” means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813], other than a mutual savings bank or a savings bank as defined in such section.

(C) The term “transaction account” means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(D) The term “nonpersonal time deposits” means a reservable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

(E) The term “reservable liabilities” means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).

(F) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

(2)(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in the ratio of 3 per centum for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per cen-

tum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

(3) Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

(4)(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(iv) on the date on which the supplemental reserve requirement is imposed, except as provided in paragraph (11), the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

(B) The Board may require the supplemental reserve authorized under subparagraph (A) only

after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii) of this section, such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.

(D) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

(5) Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

(6) The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act [12 U.S.C. 601 et seq.] or the authority of the Board under section 3105 of this title.

(7) Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

(8)(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(ii) If a bank becomes a member bank during the four-year period beginning on the effective

date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(D)(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on October 15, 1982, in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.

(ii) Any bank which withdraws from membership in the Federal Reserve System after March 31, 1980, shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

(E) This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against its deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against such deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

(9) This subsection shall not apply with respect to any financial institution which—

(A) is organized solely to do business with other financial institutions;

(B) is owned primarily by the financial institutions with which it does business; and

(C) does not do business with the general public.

(10) In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.

(11)(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.

(c) Promulgation of rules and regulations respecting maintenance of balances

(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4) of this section, except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b)(4)(C) of this section; and

(B) balances maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727),¹ or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(2) The balances maintained to meet the reserve requirements of subsection (b) of this section by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.

(Dec. 23, 1913, ch. 6, §19(a)–(c), formerly §19 (pars.), 38 Stat. 270; June 21, 1917, ch. 32, §10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title III, §324(a), 49 Stat. 714; renumbered §19(a)–(c) and amended Sept. 21, 1966, Pub. L. 89–597, §2(a), 80 Stat. 823; Dec. 23, 1969, Pub. L. 91–151, title I, §§4(a), 5, 83 Stat. 374, 375; Oct. 29, 1974, Pub. L. 93–501, title I, §101(a), 88 Stat. 1557; Mar. 31, 1980, Pub. L. 96–221, title I, §§103, 104(a), 94 Stat. 133, 138; Aug. 13, 1981, Pub. L. 97–35, title III, §385, 95 Stat. 433;

Oct. 15, 1982, Pub. L. 97–320, title IV, §411, title VII, §708, 96 Stat. 1520, 1540; Aug. 9, 1989, Pub. L. 101–73, title VII, §744(i)(2), (3), 103 Stat. 439.)

REFERENCES IN TEXT

This section, referred to in subsec. (a), means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b–1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b)(1)(A)(vi), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Section 25 of this Act, referred to in subsec. (b)(6), means section 25 of act Dec. 23, 1913, ch. 6, 38 Stat. 273, as amended, popularly known as the Federal Reserve Act. Section 25 is classified to subchapter I (§601 et seq.) of chapter 6 of this title.

For the effective date of the Monetary Control Act of 1980, referred to in subsec. (b)(8), see section 108 of Pub. L. 96–221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

Section 404 of the National Housing Act (12 U.S.C. 1727), referred to in subsec. (c)(1)(B), was repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

CODIFICATION

Section is comprised of subsecs. (a) to (c), formerly first six pars., of section 19 of act Dec. 23, 1913 (such first, second through fifth, and sixth pars. formerly classified to sections 461, 462, and 462b of this title, respectively), as redesignated by Pub. L. 89–597. For credits prior to enactment of Pub. L. 89–597 on Sept. 21, 1966, see notes set out under sections 462 and 462b of this title.

AMENDMENTS

1989—Subsec. (b)(1)(A)(vi). Pub. L. 101–73, §744(i)(2), amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: “any insured institution as defined in section 1724 of this title or any institution which is eligible to make application to become an insured institution under section 1726 of this title; and”.

Subsec. (b)(1)(F), (4)(B). Pub. L. 101–73, §744(i)(3), substituted “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board”.

1982—Subsec. (b)(1)(E), (F). Pub. L. 97–320, §411(c), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(A)(iv). Pub. L. 97–320, §411(b), inserted “except as provided in paragraph (11)”.

Subsec. (b)(8)(D)(i). Pub. L. 97–320, §708(1), substituted provisions relating to reserve requirements for banks which withdraw from the Federal Reserve System for provision that any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on the day before March 31, 1980, would maintain reserves beginning on March 31, 1980, in an amount equal to the amount of reserves it would have been required to maintain if it had been a member bank on March 31, 1980, and that after March 31, 1980, any such bank was directed to maintain reserves in the same amounts as member banks were required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

Subsec. (b)(8)(D)(ii). Pub. L. 97–320, §708(2), struck out “on or” after “Reserve System”.

Subsec. (b)(11). Pub. L. 97–320, §411(a), added par. (11). 1981—Subsec. (b)(8)(E). Pub. L. 97–35 substituted provisions relating to applicability to any depository institution that was on Aug. 1, 1978, engaged in such business in a State outside the continental limits and was not a member of the Federal Reserve System at any time on or after such date, for provisions relating to applicability to any depository institution that was on Aug. 1, 1978, engaged in such business under the laws of

¹ See References in Text note below.

a State, was not a member of the Federal Reserve System on that date, and the principal office of which was outside the continental limits on that date and has remained outside ever since.

1980—Subsec. (b). Pub. L. 96-221, §103, substituted provisions setting forth additional definitions applicable to reserve requirements and requirements respecting amounts of reserves maintained against transaction accounts, waiver of ratio limits in extraordinary circumstances, supplemental reserves, reserves related to foreign obligations or assets, exemptions for certain deposits, discounts and borrowings, transitional adjustments, and additional exemptions and waivers, for provisions relating to determinations respecting maintenance of reserves against deposits.

Subsec. (c). Pub. L. 96-221, §104(a), substituted provisions relating to the promulgation of rules and regulations respecting maintenance of balances, for provisions relating to form of reserves held by member banks.

1974—Subsec. (a). Pub. L. 93-501 substituted “and, regardless of the use of the proceeds, shall be deemed a deposit” for “shall be deemed a deposit”.

1969—Subsec. (a). Pub. L. 91-151, §4(a), authorized Board to determine type of obligations that would be deemed deposits.

Subsec. (b). Pub. L. 91-151, §5, authorized Board to prescribe ratio of indebtedness of member banks to foreign banks, up to a maximum of 22 percent.

1966—Pub. L. 89-597 designated first par. provisions of section 19 of act Dec. 23, 1913, as subsec. (a), substituted a general provision authorizing Board to define terms used in sections 142, 371a, 371b, 374, 374a, and 463 to 466 of this title for former provisions defining terms “demand deposits”, “gross demand deposits”, “deposits payable on demand”, “time deposits”, “savings deposits”, and “trust funds”, struck out inclusion of “savings deposits” in term “time deposits” in regard to reserve requirements of member banks, and added subsecs. (b) and (c) to such section 19, superseding second through sixth pars., which authorized Board to fix reserve requirements against time deposits between the limits of 3 and 10 percent, in lieu of prior limits of 3 and 6 percent, and struck out provision for modification of reserve requirements to prevent injurious credit to expansion or contraction.

1935—Act Aug. 23, 1935, abrogated statutory construction of demand deposits.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, except that the amendments regarding subsec. (b)(7) and (8)(D) effective on Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101(b) of Pub. L. 93-501 provided that: “The amendment made by subsection (a) [amending this section] shall not apply to any bank holding company which has filed prior to the date of enactment of this Act [Oct. 29, 1974], an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act [12 U.S.C. 1843], or to any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933 [15 U.S.C. 77c(a)(3)].”

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Section 7 of Pub. L. 89-597, as amended by Pub. L. 90-87, Sept. 21, 1967, 81 Stat. 226; Pub. L. 90-505, §1, Sept. 21, 1968, 82 Stat. 856; Pub. L. 91-71, Sept. 22, 1969, 83 Stat. 115; Pub. L. 91-151, title I, §1, Dec. 23, 1969, 83 Stat. 371; Pub. L. 92-8, §1, Mar. 31, 1971, 85 Stat. 13; Pub. L. 92-15, §1, May 18, 1971, 85 Stat. 38; Pub. L. 93-63, July 6, 1973, 87 Stat. 147; Pub. L. 93-100, §1, Aug. 16, 1973, 87 Stat. 342; Pub. L. 93-495, title I, §107, Oct. 28, 1974, 88 Stat. 1505;

Pub. L. 94-200, title I, §101, Dec. 31, 1975, 89 Stat. 1124; Pub. L. 95-22, title I, §101, Apr. 19, 1977, 91 Stat. 49; Pub. L. 95-188, title I, §101, Nov. 16, 1977, 91 Stat. 1387; Pub. L. 95-630, title XVI, §1601, Nov. 10, 1978, 92 Stat. 3713, which provided effective and termination dates for 1966 amendments by Pub. L. 89-597 (affecting sections 371b, 1425b, and 1828(g) of this title), was repealed by section 207(a) of Pub. L. 96-221.

ELIMINATION OR REDUCTION OF INTEREST RATE DIFFERENTIAL BETWEEN SAVINGS BANKS AND SAVINGS AND LOAN, BUILDING AND LOAN, OR HOMESTEAD ASSOCIATIONS

Pub. L. 94-200, title I, §102, Dec. 31, 1975, 89 Stat. 1124, as amended by Pub. L. 95-630, title XVI, §1602, Nov. 10, 1978, 92 Stat. 3713, which had provided that an interest rate differential for any category of deposits or accounts which was in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which were insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which were insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) [section 1813(f) of this title] could not be eliminated or reduced unless (A) written notification was given by the Board of Governors of the Federal Reserve System to the Congress; and (B) the House of Representatives and the Senate approved, by concurrent resolution, the proposed elimination or reduction of the interest rate differential, was repealed by Pub. L. 97-320, title III, §326(a), Oct. 15, 1982, 96 Stat. 1500. See section 326(b)-(d) of Pub. L. 97-320, set out as a note under section 1828 of this title. See, also, section 207(b)(1) of Pub. L. 96-221 providing for repeal of section 102 of Pub. L. 94-200 effective 6 years after Mar. 31, 1980.

INTEREST RATES: CONTROLS

Section 1 of Pub. L. 89-597 provided that: “The Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, in implementation of their respective powers under existing law and this Act [enacting section 1425b of this title, amending this section, sections 355, 371b, and 1828 of this title, and section 771 of former Title 31, Money and Finance, repealing section 462a-1 of this title and enacting provisions set out as notes under this section], shall take action to bring about the reduction of interest rates to the maximum extent feasible in the light of prevailing money market and general economic conditions.”

Effective and termination dates of control of interest rates provisions, see Effective and Termination Dates of 1966 Amendment note above.

OUTSTANDING RATE REGULATIONS

Section 5 of Pub. L. 89-597 provided that: “Any regulation prescribed by the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation with respect to the payment of deposits and interest thereon by member banks or insured nonmember banks which is in effect when this Act is enacted [Sept. 21, 1966] shall continue in effect unless and until it is modified or rescinded after consultation with the Board of Directors or the Board of Governors, as the case may be, and the Federal Home Loan Bank Board.”

Effective and termination dates of existing rate regulations, see Effective and Termination Dates of 1966 Amendment note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 248a, 1424, 1823, 1828, 1831r-1, 1831t, 1834, 1841, 3105, 3503, 4001, 4005, 4308, 4309, 4311, 4313, 4402 of this title; title 31 sections 3121, 5313, 5325, 9110.

§ 462. Omitted

CODIFICATION

Section, acts Dec. 23, 1913, ch. 6, §19 (par.), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; Sept. 26, 1918, ch. 177, §4, 40 Stat. 970; July 28, 1959, Pub. L. 86-114, §§1, 2(a), 3(b)(7)-(9), 73 Stat. 863, which related to balances member banks were required to keep in reserve banks, was omitted from the Code in view of the striking out of second through fifth pars. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of provisions of such paragraphs in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89-597, Sept. 21, 1966, 80 Stat. 823. See section 461 of this title.

§ 462a. Repealed. Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068

Section, act Apr. 24, 1917, ch. 4, §7, 40 Stat. 37, related to reserves against United States deposits.

§ 462a-1. Repealed. Pub. L. 89-597, § 2(d), Sept. 21, 1966, 80 Stat. 824

Section, act Dec. 23, 1913, ch. 6, §19 (par.), as added Aug. 23, 1935, ch. 614, title III, §324(d), 49 Stat. 715; amended Apr. 13, 1943, ch. 62, §2, 57 Stat. 65, prescribed maintenance of same bank reserves against deposits by United States as were required against other deposits.

§§ 462b, 462c. Omitted

CODIFICATION

Section 462b, act Dec. 23, 1913, ch. 6, §19 (par.), as added May 12, 1933, ch. 25, title III, §46, 48 Stat. 54; amended Aug. 23, 1935, ch. 614, title II, §207, 49 Stat. 706; July 7, 1942, ch. 488, §2, 56 Stat. 648; July 28, 1959, Pub. L. 86-114, §§2(b), 3(b)(10), (11), 73 Stat. 263, 264, related to change of requirements as to reserves in order to prevent credit expansion or contraction, and was omitted from the Code in view of the striking out of the sixth par. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of its provisions in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89-597, Sept. 21, 1966, 80 Stat. 823. See section 461 of this title.

Section 462c, act Dec. 23, 1913, ch. 6, §19 (par.), as added Aug. 16, 1948, ch. 836, §2, 62 Stat. 1291, related to change of requirements as to reserves to check credit expansion, and terminated on June 30, 1949.

§ 463. Limitation on amount of balance with any depository institution without access to Federal Reserve advances

No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 347b¹ of this title a sum in excess of 10 per centum of its own paid-up capital and surplus.

(Dec. 23, 1913, ch. 6, §19(e), formerly §19 (par. 8), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; renumbered §19(e), Sept. 21, 1966, Pub. L. 89-597, §2(b), 80 Stat. 824; Mar. 31, 1980, Pub. L. 96-221, title I, §105(e), 94 Stat. 140.)

REFERENCES IN TEXT

Section 347b of this title, referred to in text, was in the original a reference to section 10(b) of this Act, meaning section 10(b) of the Federal Reserve Act. Section 10(b) of that Act was renumbered section 10B by Pub. L. 102-242, title I, §142(a)(2), Dec. 19, 1991, 105 Stat.

¹ See References in Text note below.

2279, without a corresponding amendment to this section.

CODIFICATION

Section is comprised of part of subsec. (e), formerly eighth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597. Remainder of subsec. (e) of such section 19 is classified to section 374 of this title.

AMENDMENTS

1980—Pub. L. 96-221 substituted provisions limiting amount of balance required to be kept with any depository institution without access to Federal Reserve advances, for provisions limiting amount of balance required to be kept with any State bank or trust company.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 464. Checking against and withdrawal of reserve balance

The required balance carried by a member bank with a Federal Reserve Bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

(Dec. 23, 1913, ch. 6, §19(f), formerly §19 (par. 9), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; July 7, 1942, ch. 488, §3, 56 Stat. 648; renumbered §19(f), Sept. 21, 1966, Pub. L. 89-597, §2(b), 80 Stat. 824.)

CODIFICATION

Section is comprised of subsec. (f), formerly ninth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1942—Act July 7, 1942, struck out proviso which prohibited making new loans or paying dividends until required balance was restored.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 465. Basis for ascertaining deposits against which required balance is determined

In estimating the reserve balances required by this chapter, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §19(g), formerly §19 (par. 10), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 692; June 21, 1917, ch. 32, §10, 40 Stat. 240; Aug. 23, 1935, ch. 614, title III, §324(b), 49 Stat. 714; renumbered §19(g), Sept. 21, 1966, Pub. L. 89-597, §2(b), 80 Stat. 824.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of subsec. (g), formerly tenth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1935—Act Aug. 23, 1935, changed method of estimating reserve balances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 466. Reserves of banks in dependencies or insular possessions

National banks, or banks organized under local laws, located in a dependency or insular possession or any part of the United States outside the continental United States, may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks may with the consent of the Board of Governors of the Federal Reserve System, become member banks of any one of the reserve districts, and shall in that event take stock, maintain reserves, and be subject to all the other provisions of this chapter.

(Dec. 23, 1913, ch. 6, §19(h), formerly §19 (par. 11), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 692; June 21, 1917, ch. 32, §10, 40 Stat. 240; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; June 25, 1959, Pub. L. 86-70, §8(b), 73 Stat. 142; renumbered §19(h), Sept. 21, 1966, Pub. L. 89-597, §2(b), 80 Stat. 824.)

CODIFICATION

Section is comprised of subsec. (h), formerly eleventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1959—Pub. L. 86-70 struck out “in Alaska or” before “in a dependency”.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Reserves of national banks located in Alaska and insular possessions, see section 143 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 1424, 1828, 3105 of this title.

§ 467. Deposits of gold coin, gold certificates, and Special Drawing Right certificates with United States Treasurer

The Secretary of the Treasury is authorized and directed to receive deposits of gold or of gold certificates or of Special Drawing Right certificates with the Treasurer or any designated depository of the United States when tendered by any Federal Reserve bank or Federal Reserve agent for credit to its or his account with the Board of Governors of the Federal Reserve System. The Secretary shall prescribe by regulation the form of receipt to be issued by the Treasurer or designated depository to the Federal Reserve bank or Federal Reserve agent making the deposit, and a duplicate of such receipt shall be delivered to the Board of Governors of the Federal Reserve System by the Treasury at Washington upon proper advices from any designated depository that such deposit has been made. Deposits so made shall be held subject to the orders of the Board of Governors of the Federal Reserve System and deposits of gold or gold certificates shall be payable in gold certificates, and deposits of Special Drawing Right certificates shall be payable in Special Drawing Right certificates, on the order of the Board of Governors of the Federal Reserve System to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent. The order used by the Board of Governors of the Federal Reserve System in making such payments shall be signed by the chairman or vice chairman, or such other officers or members as the Board may by regulation prescribe. The form of such order shall be approved by the Secretary of the Treasury.

The expenses necessarily incurred in carrying out these provisions, including the cost of the certificates or receipts issued for deposits received, and all expenses incident to the handling of such deposits shall be paid by the Board of Governors of the Federal Reserve System and included in its assessments against the several Federal Reserve banks.

Nothing in this section shall be construed as amending section 6 of Act March 14, 1900, as amended by Acts Mar. 4, 1907, Mar. 2, 1911, June 12, 1916, nor shall the provisions of this section be construed to apply to the deposits made or to the receipts or certificates issued under that section.

(Dec. 23, 1913, ch. 6, §16 (pars.), as added June 21, 1917, ch. 32, §8, 40 Stat. 238; amended May 29, 1920, ch. 214, §1, 41 Stat. 654; Jan. 30, 1934, ch. 6, §2(b)(7), (8), 48 Stat. 339; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Mar. 3, 1965, Pub. L. 89-3, §2, 79 Stat. 5; Mar. 18, 1968, Pub. L. 90-269, §7, 82 Stat. 50; June 19, 1968, Pub. L. 90-349, §5(d), 82 Stat. 189.)

REFERENCES IN TEXT

Words “this section”, referred to in last par., mean section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

Section 6 of Act Mar. 14, 1900, as amended by Acts Mar. 7, 1907, Mar. 2, 1911, June 12, 1916, referred to in the last par., which was classified to section 429 of former

Title 31, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of fifteenth to eighteenth pars. of section 16 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 inserted references to Special Drawing Right certificates so as to allow them to be deposited with the Treasury in the same manner as gold certificates.

Pub. L. 90-269 repealed third par. (eighteenth par. of section 16 of Act Dec. 23, 1913) which provided that deposits standing to the credit of any Federal Reserve bank with the Board of Governors shall, at the option of said bank, be counted as part of the lawful reserve which it is required to maintain against outstanding Federal Reserve notes.

1965—Pub. L. 89-3 removed from list of purposes for which deposits made under this section could be counted, reference to the reserve in gold certificates which each Federal Reserve bank was required to maintain against deposit liabilities.

1934—Act Jan. 30, 1934, amended third sentence in first par. and third par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 5112 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title; title 31 section 5117.

SUBCHAPTER XV—BANK EXAMINATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10, 181 of this title.

§ 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports

The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary. The examiner making the examination of any national bank shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of said bank to the Comptroller of the Currency: *Provided*, That in making the examination of any national bank the examiners shall include such an examination of the affairs of all its affiliates other than member banks as shall be necessary to disclose fully the relations between such bank and such

affiliates and the effect of such relations upon the affairs of such bank; and in the event of the refusal to give any information required in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, all the rights, privileges, and franchises of the bank shall be subject to forfeiture in accordance with sections 141, 222 to 225, 281 to 283, 285, 286, 501a and 502 of this title. The Comptroller of the Currency shall have power, and he is authorized, to publish the report of his examination of any national banking association or affiliate which shall not within one hundred and twenty days after notification of the recommendations or suggestions of the Comptroller, based on said examination, have complied with the same to his satisfaction. Ninety days' notice prior to such publicity shall be given to the bank or affiliate.

The examiner making the examination of any affiliate of a national bank shall have power to make a thorough examination of all the affairs of the affiliate, and in doing so he shall have power to administer oaths and to examine any of the officers, directors, employees, and agents thereof under oath and to make a report of his findings to the Comptroller of the Currency. If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this subchapter or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe. The examiners and assistant examiners making the examinations of national banking associations and affiliates thereof herein provided for and the chief examiners, reviewing examiners and other persons whose services may be required in connection with such examinations or the reports thereof, shall be employed by the Comptroller of the Currency with the approval of the Secretary of the Treasury; the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation is and shall be paid from assessments on banks or affiliates thereof or from other fees or charges imposed pursuant to this subchapter shall be without regard to the provisions of other laws applicable to officers or employees of the United States. The funds derived from such assessments, fees, or charges may be deposited by the Comptroller of the Currency in accordance with the provisions of section 192 of this title and shall not be construed to be Government funds or appropriated monies; and the Comptroller of the Currency is authorized and empowered to prescribe regulations governing the computation and assessment of the expenses of examinations herein provided for and the collection of such assessments from the banks and/or affiliates examined or of other fees

or charges imposed pursuant to this subchapter. Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority. If any affiliate of a national bank shall refuse to permit an examiner to make an examination of the affiliate or shall refuse to give any information required in the course of any such examination, the national bank with which it is affiliated shall be subject to a penalty of not more than \$5,000 for each day that any such refusal shall continue. Such penalty may be assessed by the Comptroller of the Currency and collected in the same manner as expenses of examinations. The Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this subchapter to examine foreign operations of State banks which are members of the Federal Reserve System.

(R.S. §5240 (pars.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 271; June 16, 1933, ch. 89, §28, 48 Stat. 192; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §343, 49 Stat. 704, 722; June 30, 1948, ch. 762, §1, 62 Stat. 1163; Apr. 30, 1956, ch. 228, §1, 70 Stat. 124; Mar. 31, 1980, Pub. L. 96-221, title VII, §709, 94 Stat. 188; Aug. 10, 1987, Pub. L. 100-86, title V, §505(b), 101 Stat. 633; Aug. 9, 1989, Pub. L. 101-73, title IX, §907(f), 103 Stat. 470; Dec. 19, 1991, Pub. L. 102-242, title I, §114(b), 105 Stat. 2248.)

REFERENCES IN TEXT

This subchapter, referred to in second par., was in the original a reference to this section, meaning section 5240 of the Revised Statutes.

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

R.S. §5240, as amended by acts Dec. 23, 1913, July 2, 1932, June 16, 1933, Pub. L. 101-73, and Pub. L. 102-242, is comprised of 7 undesignated paragraphs. Pars. 1 and 2 are classified to section 481 of this title, pars. 3 and 4 are classified to section 482 of this title, and pars. 5 to 7 are classified to sections 483 to 485, respectively, of this title.

AMENDMENTS

1991—Pub. L. 102-242, in second par., inserted second and third sentences and struck out former second and third sentences which read as follows: "The expense of examinations of such affiliates may be assessed by the Comptroller of the Currency upon the affiliates examined in proportion to assets or resources held by the affiliates upon the dates of examination of the various affiliates. If any such affiliate shall refuse to pay such expenses or shall fail to do so within sixty days after the date of such assessment, then such expenses may be assessed against the affiliated national bank and, when so assessed, shall be paid by such national bank: *Provided, however*, That, if the affiliation is with two or more national banks, such expenses may be assessed against, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.", in fourth sentence, inserted "or from other fees or charges imposed pursuant to this subchapter" after "assessments on banks or affiliates thereof", and in fifth sentence, inserted ", fees, or charges" before "may be deposited" and "or of other fees or charges imposed pursuant to this subchapter" before period.

1989—Pub. L. 101-73, in second par., increased the penalty for refusal to allow the examination from \$100 to \$5,000.

1987—Pub. L. 100-86 inserted after fifth sentence of second par. "Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority."

1980—Pub. L. 96-221 inserted provisions relating to examination of foreign operations of State banks which are members of the Federal Reserve System, and substituted provisions authorizing examinations as often as the Comptroller deems necessary, for provisions requiring examinations twice in every calendar year, and provisions authorizing the Comptroller to waive one examination or require additional examinations.

1956—Act Apr. 30, 1956, allowed Comptroller to waive 1 of the 2 examinations required each year, but not more than one waiver every two years.

1948—Act June 30, 1948, struck out in first sentence after first proviso of second par. "including retirement annuities to be fixed by the Comptroller of the Currency,".

1935—Act Aug. 23, 1935, §343, substituted in first sentence after first proviso of second par. "including retirement annuities to be fixed by the Comptroller of the Currency, is and shall be" for "is".

1933—Act June 16, 1933, inserted proviso and last two sentences at end of first par. and added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 30, 1948, effective on first day of first pay period beginning at least 30 days after June 30, 1948, see section 5 of that act.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Exemption of certain banks from examination under this section, see section 330 of this title.

Voluntary dissolution, expense of examination, see section 181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 330, 482, 1831k, 3102 of this title.

§ 482. Employees of Office of Comptroller of the Currency; appointment; compensation and benefits

Notwithstanding any of the provisions of section 481 of this title or section 301(f)(1) of title 31 to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or sub-

chapter III of chapter 53 of title 5. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies.

The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the office¹ of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.

(R.S. § 5240 (pars.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 272; July 2, 1932, ch. 392, 47 Stat. 568; Aug. 23, 1935, ch. 614, title III, § 343, 49 Stat. 722; Apr. 30, 1956, ch. 228, §§ 2, 3, 70 Stat. 124; Aug. 9, 1989, Pub. L. 101-73, title XII, § 1202, 103 Stat. 520; Dec. 19, 1991, Pub. L. 102-242, title I, § 114(a), 105 Stat. 2248; Oct. 28, 1992, Pub. L. 102-550, title XVI, § 1603(b)(5), 106 Stat. 4079; Sept. 23, 1994, Pub. L. 103-325, title III, § 331(b)(1), 108 Stat. 2232.)

REFERENCES IN TEXT

Provisions of section 481 of this title, referred to in first par., was in the original "preceding provisions of this section", meaning R.S. § 5240. See Codification note set out below.

CODIFICATION

R.S. § 5240 derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of third and fourth pars. of R.S. § 5240, as amended. The former fifth par. of R.S. § 5440, which comprised the third par. of this section, was repealed by Pub. L. 102-242. See Codification note set out under section 481 of this title.

AMENDMENTS

1994—Pub. L. 103-325 inserted "or section 301(f)(1) of title 31" after "provisions of section 481 of this title".

1992—Pub. L. 102-550 substituted "office" for "duties" in second par.

1991—Pub. L. 102-242 added second par. and struck out former second and third pars. which read as follows:

"The expense of the examinations provided for in this subchapter shall be assessed by the Comptroller of the Currency upon national banks in proportion to their assets or resources. The assessments may be made more frequently than annually at the discretion of the Comptroller of the Currency. The annual rate of such assessment shall be the same for all national banks, except that banks examined more frequently than twice in one calendar year shall, in addition, be assessed the expense of these additional examinations.

"In addition to the expense of examination to be assessed by the Comptroller of the Currency as heretofore provided, all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers shall be assessed by the Comptroller of the Currency for the examination of their fiduciary activities a fee adequate to cover the expense thereof."

¹ So in original. Probably should be capitalized.

1989—Pub. L. 101-73, in first paragraph, substituted "Notwithstanding any of the provisions of section 481 of this title to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies." for "The Comptroller of the Currency shall fix the salaries of all bank examiners and make report thereof to Congress." and redesignated remaining sentences of first paragraph as a second paragraph. Former second paragraph became third paragraph.

1956—Act Apr. 30, 1956, provided that assessments may be made more frequently than annually and the annual rate of such assessment shall be the same for all national banks except that banks examined more than twice in one year shall be assessed the expense of the additional examinations, and based additional charges for examining all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers on the cost of making the examination rather than the amount of trust assets under administration.

1935—Act Aug. 23, 1935, substituted in first sentence "The Comptroller of the Currency" for "The Federal Reserve Board, upon the recommendation of the Comptroller of the Currency".

1932—Act July 2, 1932, added last par.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Exemption of certain banks from provisions of this section, see section 330 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 330, 1831k of this title; title 5 section 5373.

§ 483. Special examination of member banks; information of condition furnished to Board of Governors of the Federal Reserve System

In addition to the examinations made and conducted by the Comptroller of the Currency, every Federal reserve bank may, with the approval of the Federal reserve agent or the Board of Governors of the Federal Reserve System, provide for special examination of member banks within its district. The expense of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined. Such examinations shall be so con-

ducted as to inform the Federal reserve bank of the condition of its member banks and of the lines of credit which are being extended by them. Every Federal reserve bank shall at all times furnish to the Board of Governors of the Federal Reserve System such information as may be demanded concerning the condition of any member bank within the district of the said Federal reserve bank.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; June 26, 1930, ch. 611, §2, 46 Stat. 814; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of fifth par. of R.S. §5240, as amended. See Codification note set out under section 481 of this title.

AMENDMENTS

1930—Act June 26, 1930, substituted second sentence “The expense of such examinations may, in the discretion of the Federal Reserve Board, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined.” for “The expense of such examinations shall be borne by the bank examined.”

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1831k, 3105 of this title.

§ 484. Limitation on visitorial powers

(a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

(b) Notwithstanding subsection (a) of this section, lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; Oct. 15, 1982, Pub. L. 97-320, title IV, §412, 96 Stat. 1521; Jan. 12, 1983, Pub. L. 97-457, §23(a), 96 Stat. 2510.)

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of sixth par. of R.S. §5240, as amended. See Codification note set out under section 481 of this title.

Section 412 of Pub. L. 97-320, set out in the credit of this section, was amended by section 23(a) of Pub. L. 97-457 to correct an error in the directory language of section 412 of Pub. L. 97-320. That amendment involved only directory language and not the content of the text being amended by Pub. L. 97-320 so no change in the text of this section resulted from the amendment by Pub. L. 97-457.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-320, as amended by Pub. L. 97-457, designated existing provisions as subsec. (a), and amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: “No bank shall be subject to any visitorial powers other than such as are authorized by law, or vested in the courts of justice or such as shall be or shall have been exercised or directed by Congress, or by either House thereof or by any committee of Congress or of either House duly authorized”.

Subsec. (b). Pub. L. 97-320, as amended by Pub. L. 97-457, added subsec. (b).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 23(b) of Pub. L. 97-457 provided that: “The amendment made by subsection (a) [amending section 412 of Pub. L. 97-320, which amended this section] shall be deemed to have taken effect upon the enactment of Public Law 97-320 [Oct. 15, 1982].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10, 181, 1831k of this title; title 26 section 3305.

§ 485. Examination of Federal reserve banks

The Board of Governors of the Federal Reserve System shall, at least once each year, order an examination of each Federal reserve bank, and upon joint application of ten member banks the Board of Governors of the Federal Reserve System shall order a special examination and report of the condition of any Federal reserve bank.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of seventh par. of R.S. §5240, as amended. See Codification note set out under section 481 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Exemption of certain banks from examination, see section 330 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1831k of this title.

§ 486. Waiver of requirements as to reports from or examinations of affiliates

Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, may waive such

requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board of Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank.

(Dec. 23, 1913, ch. 6, §21 (par.), as added Aug. 23, 1935, ch. 614, title III, §325, 49 Stat. 715.)

CODIFICATION

This section was not enacted as part of R.S. §5240 which comprises this subchapter. Act Dec. 23, 1913, derived from R.S. §5240.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SUBCHAPTER XVI—CIVIL LIABILITY OF FEDERAL RESERVE AND MEMBER BANKS, SHAREHOLDERS, AND OFFICERS

§ 501. Liability of Federal reserve or member bank for certifying check when amount of deposit was inadequate

It shall be unlawful for any officer, director, agent, or employee of any Federal reserve bank, or any member bank as defined in this chapter, to certify any check drawn upon such Federal reserve bank or member bank unless the person, firm, or corporation drawing the check has on deposit with such Federal reserve bank or member bank, at the time such check is certified, an amount of money not less than the amount specified in such check. Any check so certified by a duly authorized officer, director, agent, or employee shall be a good and valid obligation against such Federal reserve bank or member bank; but the act of any officer, director, agent, or employee of any such Federal reserve bank or member bank in violation of this section shall, in the discretion of the Board of Governors of the Federal Reserve System, subject such Federal reserve bank to the penalties imposed by subsection (h) of section 248 of this title, and shall subject such member banks, if a national bank, to the liability and proceedings on the part of the Comptroller of the Currency provided for in section 192 of this title, and shall, in the discretion of the Board of Governors of the Federal Reserve System, subject any other member bank to the penalties imposed by subchapter VIII of chapter 3 of this title for the violation of any of the provisions of this chapter.

(R.S. §5208; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Feb. 25, 1927, ch. 191, §12, 44 Stat. 1231; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “the act of December 23, 1913, known as the Federal Reserve Act,” and “said act,” respectively, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Subchapter VIII of chapter 3 of this title, referred to in text, was in the original “section nine of said Federal reserve Act”. Section 9 is classified generally to subchapter VIII (§321 et seq.) of chapter 3 of this title.

CODIFICATION

R.S. §5208 derived from act Mar. 3, 1869, ch. 135, 15 Stat. 335.

The last sentence of R.S. §5208, as amended, which provided penalties for certification of certain checks, was repealed by section 21 of act June 25, 1948, ch. 645, 62 Stat. 862, 865, and the provisions thereof were reenacted as section 1004 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1927—Act Feb. 25, 1927, substituted “deposited in the bank of the drawer thereof” after “regularly” in last sentence.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Penalty for unlawful certification of checks, see section 1004 of Title 18, Crimes and Criminal Procedure.

§ 501a. Forfeiture of franchise of national banks for failure to comply with provisions of this chapter

Should any national banking association in the United States now organized fail within one year after December 23, 1913, to become a member bank or fail to comply with any of the provisions of this chapter applicable thereto, all of the rights, privileges, and franchises of such association granted to it under the National Bank Act [12 U.S.C. 21 et seq.], or under the provisions of this chapter, shall be thereby forfeited. Any noncompliance with or violation of this chapter shall, however, be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which such bank is located, under direction of the Board of Governors of the Federal Reserve System by the Comptroller of the Currency in his own name before the association shall be declared dissolved. In cases of such noncompliance or violation, other than the failure to become a member bank under the provisions of this chapter, every director who participated in or assented to the same shall be held liable in his personal or individual capacity for all damages which said bank, its shareholders, or any other person shall have sustained in consequence of such violation.

Such dissolution shall not take away or impair any remedy against such corporation, its stockholders, or officers, for any liability or penalty which shall have been previously incurred.

(Dec. 23, 1913, ch. 6, §2, 38 Stat. 252; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 222, 377, 481, 522, 1817 of this title.

§ 502. Liability of shareholders of Federal reserve banks on contracts, etc.

The shareholders of every Federal reserve bank shall be held individually responsible equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent of the amount of their subscriptions to such stock at the par value thereof in addition to the amount subscribed, whether such subscriptions have been paid up in whole or in part under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 252.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 503. Liability of directors and officers of member banks

If the directors or officers of any member bank shall knowingly violate or permit any of the agents, officers, or directors of any member bank to violate any of the provisions of sections 375, 375a, 375b, and 376 of this title or regulations of the board made under authority thereof, or any of the provisions of sections 212, 213, 214, 215, 655, 1005, 1014, 1906, or 1909 of title 18, every director and officer participating in or assenting to such violation shall be held liable in his personal and individual capacity for all damages which the member bank, its shareholders, or any other persons shall have sustained in consequence of such violation.

(Dec. 23, 1913, ch. 6, § 22(f), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 971; amended Sept. 3, 1954, ch. 1263, § 28, 68 Stat. 1236.)

CODIFICATION

In text, “sections 375, 375a, 375b, and 376 of this title” was in the original “this section”, meaning section 22 of act Dec. 23, 1913, which was also classified to sections 593 to 599 of this title. Such sections were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and the provisions thereof were reenacted as sections 217, 218, 219, 220, 655, 1005, 1014, 1906, and 1909 of Title 18, Crimes and Criminal Procedure. Reference to such repealed sections was omitted from the text in view of act Sept. 3, 1954, which amended the text by incorporating therein the reference to the sections of Title 18.

Reference to sections “212, 213, 214, 215” of title 18 were substituted for sections “217, 218, 219, 220” of title 18 on authority of section 1(d) of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1125, which redesignated sections 217, 218, 219, and 220 of title 18 as sections 212, 213, 214, and 215, respectively.

AMENDMENTS

1954—Act Sept. 3, 1954, inserted “or any of the provisions of sections 217, 218, 219, 220, 655, 1005, 1014, 1906, or 1909 of title 18,”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 504 of this title.

§ 504. Civil money penalty

(a) First tier

Any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who, violates any provision of section 371c, 371c-1, 375, 375a, 375b, 376, or 503 of this title, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(b) Second tier

Notwithstanding subsection (a) of this section, any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who¹

(1)(A) commits any violation described in subsection (a) of this section;

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

(C) breaches any fiduciary duty;

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct;

(B) causes or is likely to cause more than a minimal loss to such member bank; or

(C) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(c) Third tier

Notwithstanding subsections (a) and (b) of this section, any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

(1) knowingly—

(A) commits any violation described in subsection (a) of this section;

(B) engages in any unsafe or unsound practice in conducting the affairs of such credit union;² or

(C) breaches any fiduciary duty; and

(2) knowingly or recklessly causes a substantial loss to such credit union² or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) of this section for each day during which such violation, practice, or breach continues.

(d) Maximum amounts of penalties for any violation described in subsection (c)

The maximum daily amount of any civil penalty which may be assessed pursuant to sub-

¹ So in original. Probably should be followed by a dash.

² So in original. Probably should be “such member bank”.

section (c) of this section for any violation, practice, or breach described in such subsection is—

- (1) in the case of any person other than a member bank, an amount to not exceed \$1,000,000; and
- (2) in the case of a member bank, an amount not to exceed the lesser of—
 - (A) \$1,000,000; or
 - (B) 1 percent of the total assets of such member bank.

(e) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) of this section shall be assessed and collected³ by

- (1) in the case of a national bank, by the Comptroller of the Currency; and
- (2) in the case of a State member bank, by the Board,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(f) Hearing

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(g) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(h) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(i) Regulations

The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(m)⁴ Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, §29, as added Nov. 10, 1978, Pub. L. 95-630, title I, §101, 92 Stat. 3641; amend-

ed Oct. 15, 1982, Pub. L. 97-320, title IV, §424(c), (d)(1), (e), 96 Stat. 1523; Aug. 9, 1989, Pub. L. 101-73, title IX, §§905(f), 907(g), 103 Stat. 461, 470.)

CODIFICATION

In subsec. (a), "section 371c, 371c-1, 375, 375a, 375b, 376, or 503 of this title" was in the original "section 22, 23A, or 23B", meaning section 22, 23A, or 23B of the Federal Reserve Act. Sections 23A and 23B are classified to sections 371c and 371c-1, respectively, of this title. Subsections (d) to (h) of section 22 are classified to sections 375, 375a, 375b, 376, and 503 of this title. Former subsections (a) to (c) and (h) to (k), which were classified to sections 593 to 599 of this title, were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948, and the provisions thereof were reenacted as sections 217, 218, 219, 220, 655, 1005, 1014, 1906, and 1909 of Title 18, Crimes and Criminal Procedure. Sections 217, 218, 219, and 220 of Title 18 were redesignated as sections 212, 213, 214, and 215 of Title 18 by act Oct. 23, 1962, Pub. L. 87-849, §1(d), 76 Stat. 1125.

AMENDMENTS

1989—Pub. L. 101-73, §907(g), amended section generally, substituting provisions of subsecs. (a) to (i) for former provisions which related to the following: subsec. (a), making loans, extensions of credit, purchases of securities, etc., respecting affiliates, executive officers, etc.; subsec. (b), amount of penalty; subsec. (c), opportunity for hearing; subsec. (d), review by United States court of appeals; subsec. (e), action by Attorney General for failure to pay assessment; subsec. (f), promulgation of regulations; and subsec. (g), penalties covered into Treasury of United States.

Subsec. (m). Pub. L. 101-73, §905(f), added subsec. (m). 1982—Subsec. (a). Pub. L. 97-320, §424(c), (d)(1), inserted proviso giving agency discretionary authority to compromise, etc., any civil money penalty imposed under its authority, and substituted "may be assessed" for "shall be assessed", respectively.

Subsec. (d). Pub. L. 97-320, §424(e), substituted "twenty days from the service" for "ten days from the date".

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 907(g) of Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

EFFECTIVE DATE

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

§ 505. Civil money penalty

(1) First tier

Any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) Second tier

Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

³ So in original. Probably should be followed by a dash rather than "by".

⁴ So in original. No subsecs. (j) to (l) have been enacted.

(A)(i) commits any violation described in paragraph (1);

(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

(iii) breaches any fiduciary duty;

(B) which violation, practice, or breach—

(i) is part of a pattern of misconduct;

(ii) causes or is likely to cause more than a minimal loss to such member bank; or

(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) Third tier

Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

(A) knowingly—

(i) commits any violation described in paragraph (1);

(ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or

(iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) Maximum amounts of penalties for any violation described in paragraph (3)

The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(B) in the case of a member bank, an amount not to exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the total assets of such member bank.

(5) Assessment; etc.

Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) Hearing

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(7) Disbursement

All penalties collected under authority of this section shall be deposited into the Treasury.

(8) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(9) Regulations

The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(Dec. 23, 1913, ch. 6, §19(l), formerly §19(j), as added Nov. 10, 1978, Pub. L. 95-630, title I, §102, 92 Stat. 3642; renumbered §19(l), Mar. 31, 1980, Pub. L. 96-221, title I, §105(f), 94 Stat. 140; amended Oct. 15, 1982, Pub. L. 97-320, title IV, §424(a), (d)(2), (e), 96 Stat. 1522, 1523; Aug. 9, 1989, Pub. L. 101-73, title IX, §907(h), 103 Stat. 472.)

REFERENCES IN TEXT

This section, referred to in pars. (1) and (8), means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally, revising and restating as pars. (1) to (9) provisions of former pars. (1) to (7) which related to civil penalty respecting depository, reserve, etc., requirements; amount; hearing; review; action by Attorney General; and regulations.

1982—Par. (1). Pub. L. 97-320, §424(a), (d)(2), inserted proviso giving Board discretionary authority to compromise, etc., any civil money penalty imposed under this section, and substituted "may be assessed" for "shall be assessed".

Par. (4). Pub. L. 97-320, §424(e), substituted "twenty days from the service" for "ten days from the date".

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

EFFECTIVE DATE

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1828 of this title.

§ 506. Notice after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any

such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, §19(m), as added Aug. 9, 1989, Pub. L. 101-73, title IX, §905(g), 103 Stat. 461.)

REFERENCES IN TEXT

This section, referred to in text, means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

SUBCHAPTER XVII—RESERVE-BANK BRANCHES

§ 521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building

The Board of Governors of the Federal Reserve System may permit or require any Federal reserve bank to establish branch banks within the Federal reserve district in which it is located or within the district of any Federal reserve bank which may have been suspended. Such branches, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, shall be operated under the supervision of a board of directors to consist of not more than seven nor less than three directors, of whom a majority of one shall be appointed by the Federal reserve bank of the district, and the remaining directors by the Board of Governors of the Federal Reserve System. Directors of branch banks shall hold office during the pleasure of the Board of Governors of the Federal Reserve System.

The Board of Governors of the Federal Reserve System may at any time require any Federal reserve bank to discontinue any branch of such Federal reserve bank established under this section. The Federal reserve bank shall thereupon proceed to wind up the business of such branch bank, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe.

No Federal Reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character or to authorize the erection of any such building, except with the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §3, 38 Stat. 253; June 21, 1917, ch. 32, §1, 40 Stat. 232; Feb. 25, 1927, ch. 191, §19, 44 Stat. 1234; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Aug. 31, 1962, Pub. L. 87-622, §2, 76 Stat. 418.)

AMENDMENTS

1962—Pub. L. 87-622 added par. providing that no Federal Reserve Bank shall have authority to enter into any contract for the erection of a branch bank building or to authorize the erection of such building, except with the approval of the Board of Governors of the Federal Reserve System.

1927—Act Feb. 25, 1927, added par. authorizing the Federal Reserve Board to discontinue and wind up the business of branch banks.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 522. Federal reserve branch bank buildings

No Federal Reserve¹ bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.

(Dec. 23, 1913, ch. 6, §10 (par.), as added June 3, 1922, ch. 205, 42 Stat. 622; amended Feb. 6, 1923, ch. 60, 42 Stat. 1223; July 30, 1947, ch. 352, 61 Stat. 520; May 29, 1953, ch. 87, 67 Stat. 41; Aug. 31, 1962, Pub. L. 87-622, §1, 76 Stat. 418; Oct. 28, 1974, Pub. L. 93-495, title I, §108, 88 Stat. 1505; Oct. 24, 1992, Pub. L. 102-491, §2, 106 Stat. 3144.)

CODIFICATION

Section is comprised of ninth paragraph of act Dec. 23, 1913, §10, as added June 3, 1922. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

AMENDMENTS

1992—Pub. L. 102-491 amended section generally. Prior to amendment, section read as follows: "No Federal reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character, or to authorize the erection of any such building, if the cost of the building proper, exclusive of the cost of the vaults, permanent equipment, furnishings, and fixtures, is in excess of \$250,000: *Provided*, That nothing herein shall apply to any building under construction prior to June 3, 1922: *Provided further*, That the cost as above specified shall not be so limited as long as the aggregate of such costs which are incurred by all Federal Reserve banks for branch bank buildings with the approval of the Board of Governors after July 30, 1947 does not exceed \$140,000,000."

1974—Pub. L. 93-495 increased from \$60,000,000 to \$140,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1962—Pub. L. 87-622 increased from \$30,000,000 to \$60,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1953—Act May 29, 1953, increased from \$10,000,000 to \$30,000,000 the limitation on aggregate cost of constructing branch bank buildings.

1947—Act July 30, 1947, inserted proviso exempting limitation on cost of construction where aggregate costs do not exceed \$10,000,000.

CHAPTER 4—TAXATION

SUBCHAPTER I—FEDERAL RESERVE BANKS

Sec.
531. Exemption from taxation.

SUBCHAPTER II—NATIONAL BANK CIRCULATION

541. Tax on circulating notes generally.
542 to 547. Omitted or Repealed.

SUBCHAPTER III—NATIONAL BANK SHARES

548. State taxation.

SUBCHAPTER IV—STATE BANK CIRCULATION

561 to 570. Omitted.

¹ So in original. Probably should not be capitalized.